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Civil Administrative Code

AN ACT

PASSED BY THE LEGISLATURE OF NEBRASKA
THIRTY-SEVENTH SESSION

1919

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CIVIL ADMINISTRATIVE CODE

Senate File No. 2.

Introduced by Mr. Peterson, Mr. Saunders, Mr. Cordeal, Mr.
Reed, Mr. Bushee.

AN ACT to asopt (adopt) and establish a code of laws for the State of Nebraska relating to the civil government of the State and to provide for their administration and enforcement to be known as the Civil Administrative Code and to repeal Chapter 215, Laws of 1917. Sections 144, 146, 148, 149 and 151 of the Revised Statutes for 1913; Sections 145, 150, 152, 153 and 154 of the Revised Statutes for 1913 as amended by Chapter 10 of the Laws of 1915; Section 147 of the Revised Statutes for 1913 as amended by Chapter 2 of the Laws of 1917; Chapter 169 of the Laws of 1915; Sections 2653, 2655 to 2667 inclusive, 2669 to 2675 inclusive, 2680 to 2709 inclusive, of the Revised Statutes for 1913; Sections 2654, 2668, 2676, 2677, 2678 and 2679 of the Revised Statutes for 1913 as amended by the Laws of 1917; Chapters 159, 160, and 161 of the Laws of 1917; Sections 3551 to 3563 inclusive, 3565 to 3641 inclusive of the Revised Statutes for 1913; Section 3564 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 3137 to 3154 inclusive, 3156, 3157, 3158, 3159, 3161, to 3174 inclusive, 3176, 3177, 3179, 3180, 3182 to 3192 inclusive, 3194 to 3214 inclusive, 3216 to 3275 inclusive, 3277 to 3297 inclusive, 3299 to 3345 inclusive, of the Revised Statutes for 1913; Sections 3155, 3160, 3175, 3178, 3181, 3193, 3215, 3276 and 3298 of the Revised Statutes for 1913 as amended by Laws of 1917; Chapters 79, 188 and 189 of the Laws of 1917; Sections 280 to 302 inclusive, 304 to 331 inclusive, Sections 333 to 356 inclusive, of the Revised Statutes for 1913; Section 303 of the Revised Statutes for 1913 as amended by the Laws of 1915; Section 332 of the Revised Statutes for 1913 as amended by the Laws of 1917; Chapter 165 of the Laws of 1917; Chapter 175, Laws of 1915; Sections 738 to 742 inclusive, 744 to 752 inclusive, of the Revised Statutes for 1913; Section 743 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 485, 487, 489, 490, 492, 494, to 516 inclusive, of the Revised Statutes for 1913; Section 491 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 486, 488 and 493 of the Revised Statutes for 1913 as amended by the Laws of 1917; Chapter 179 of the Laws of 1917; Sections 2500 to 2515 inclusive, of the

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Revised Statutes for 1913; Sections 5917, 5918, 5920 to 5922 inclusive, of the Revised Statutes for 1913 as amended by the Laws of 1917; Section 5919 of the Revised Statutes for 1913; Sections 2526, 2529 to 2531 inclusive, 2534 to 2541 inclusive, 2543, 2544, 2545, 2547, 2548, 2551, 2552, 2553, 2554, 2556 to 2569 inclusive, of the Revised Statutes for 1913; Sections 2532, 2542, 2549 to 2550 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 2527, 2528, 2533, 2546, 2555 and 2537, Revised Statutes of 1913 as amended by the Laws of 1917; Sections 2570 to 2620 inclusive, Revised Statutes for 1913; Sections 5759 to 5766 inclusive, Revised Statutes for 1913; Chapter 158 of the Laws of 1917; Chapters 192 to 193 of the Laws of 1915; Sections 3094 to 3109 inclusive, 3111 to 3115 inclusive, 3117 to 3134 inclusive of the Revised Statutes for 1913; Sections 3110 and 3116 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 7514 to 7523 inclusive, 7525 to 7530 inclusive, 7532, 7534 to 7546 inclusive, 7548 to 7557 inclusive, of the Revised Statutes for 1913; Sections 7531 and 7547 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 7524 and 7533 of the Revised Statutes for 1913 as amended by the Laws of 1917; Chapter 235 of the Laws of 1917; Sections 2737 to 2744 inclusive, 2717 to 2720 inclusive, 2722 to 2727 inclusive, of the Revised Statutes for 1913; Section 2721 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 2728 to 2736 inclusive, of the Revised Statutes for 1913; Sections 2745 to 2749 inclusive, 2751 to 2757 inclusive, of the Revised Statutes for 1913; Section 2750 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 2758 to 2770 inclusive, and 2788 to 2794 inclusive, of the Revised Statutes of 1913; Chapter 197 of the Laws of 1915; Sections 2798 to 2801 inclusive, 2805, 2808, 2811 to 2814 inclusive, 2816, 2817 and 2820, of the Revised Statutes for 1913; Sections 2795, 2796, 2797, 2802, 2803, 2804, 2807, 2810, 2815 and 2818, of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 2829 and 2833, of the Revised Statutes for 1913; Sections 2830, 2831, 2832, 2834, 2835, 2836 and 2837 of the Revised Statutes for 1913 as amended by the Laws of 1915. Sections 2821 to 2828 inclusive of the Revised Statutes for 1913; Chapter 198 of the Laws of 1915; Sections 2771 to 2787 inclusive, of the Revised Statutes for 1913; Sections 5826 to 5837 inclusive, of the Revised Statutes for 1913; Chapter 183 of the Laws of 1915; Sections 9152 to 9171 inclusive, of the Revised Statutes for 1913; Sections 3369 to 3418 inclusive, 3420 to 3435 inclusive, 3437 to 3454 inclusive, 3456, of the Revised Statutes for 1913; Sections 3419, 3436, 3455, of the Revised Statutes for 1913, as amended by the Laws of 1915. Sections 1915 to 1921 inclusive, of the Revised Statutes for 1913; Sections 2978 to 2981 inclusive, of the Revised Statutes

for 1913; Sections 2934, 2935, 2936, 2976, 2977 and 2982, of the Revised Statutes for 1913 as amended by the Laws of 1915; Chapter 54 of the Laws of 1915; Chapter 185 of the Laws of 1917; Sections 3043, 3048, 3049, 3050, 3052, 3053 and 3054 of the Revised Statutes for 1913; Sections 3044 and 3047 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 3045, 3046 and 3051, of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 796 to 805 inclusive and 807 to 811 inclusive, of the Revised Statutes for 1913; Section 806 of the Revised Statutes for 1913 as amended by the Laws of 1917 and Chapter 181 of the Laws of 1917, and to repeal all other acts or parts of acts in conflict therewith.

TITLE I.

EXECUTIVE DEPARTMENT

ARTICLE I.

GENERAL PROVISIONS.

Be it Enacted by the People of the State of Nebraska:

Section 1. **Civil administration vested in governor.**—The Civil administration of the laws of the state is hereby vested in the governor. For the purpose of aiding the governor in the execution and administration of the laws, the executive and administrative work shall be divided into the several departments enumerated in Section 2 of this article.

Sec. 2. **Executive and administrative departments.**—There are hereby created and established the following departments of the State Government.

- The Department of Finance;
- The Department of Agriculture;
- The Department of Labor;
- The Department of Trade and Commerce;
- The Department of Public Welfare;
- The Department of Public Works.

Sec. 3. **Departmental secretaries.**—To aid the governor in carrying out the constitutional duties, vested in him as the supreme executive, each department shall have a departmental officer who shall be known as "Secretary", who shall, subject to the provisions of this act, and under the general direction of the

governor, execute the power and discharge the duties vested by law in his respective department. Such officers shall be designated as follows:

- The Secretary of Finance, for the Department of Finance;
- The Secretary of Agriculture, for the Department of Agriculture;
- The Secretary of Labor, for the Department of Labor;
- The Secretary of Trade and Commerce, for the Department of Trade and Commerce;
- The Secretary of Public Welfare, for the Department of Public Welfare;
- The Secretary of Public Works, for the Department of Public Works.

Sec. 4. **Salaries of secretaries.**—The Secretaries of the respective departments created by this article shall receive annual salaries in monthly or yearly periods as follows:

- The Secretary of Finance shall receive \$5,000.00.
- The Secretary of Agriculture shall receive \$5,000.00.
- The Secretary of Labor shall receive \$5,000.00.
- The Secretary of Trade and Commerce shall receive \$5,000.00.
- The Secretary of Public Welfare shall receive \$5,000.00.
- The Secretary of Public Works shall receive \$5,000.00.

Sec. 5. **Assistants—appointment—salaries—terms, etc.**—The governor shall, in each department, have power to appoint such deputies, assistants, employees and clerical help as shall be necessary or essential to the economical but efficient and proper enforcement and administration of the laws of the State, and shall at the same time fix the salaries of such appointees and prescribe their duties. The governor shall also have power to discontinue the service of any such secretary or employee when, in his judgment, the same is not longer necessary. Such appointee may be required to serve in one or more departments and may be transferred from one department to another from time to time as efficient but economical administration shall require. The governor shall confer with the secretaries of the several departments and the secretaries shall make recommendations to the governor from time to time relative to appointments, services, salaries and duties of the appointees for their respective departments. In providing

for deputies, assistants, employees or clerical help, the total expenditures for the biennium shall not exceed the appropriation made by the legislature for said departments.

Sec. 6. Secretaries and appointees to devote their entire time to office.—Each secretary, and each appointee in each department, shall devote his entire time to the duties of his office and shall hold no other office or position of profit. No appointee in any of the departments shall be a relative of any of the secretaries of departments created by this act.

Sec. 7. Secretaries—appointed how.—Each secretary of each department created by this act shall be appointed by the governor, by and with the advice and consent of the senate. In any case of vacancy in such offices during the recess of the senate, the governor shall make a temporary appointment until the next meeting of the senate, when he shall nominate some person to fill such office; and any person so nominated who is confirmed by the senate, shall hold his office during the remainder of the term and until his successor shall be appointed and qualified. If the senate is not in session at the time this act takes effect the governor shall make a temporary appointment as in case of a vacancy.

Sec. 8. Same—term of office.—Each secretary whose office is created by this act shall hold office for a term of two years from the first Thursday after the first Monday in January next after the election of the governor and until his successor is appointed and qualified unless sooner removed by the governor.

Sec. 9. Same—oath of office.—Each secretary, deputy and assistant in each department created by this act shall, before entering upon the duties of his office subscribe and take the constitutional oath of office, which shall be filed in the office of the secretary of state.

Sec. 10. Same—bond.—Each secretary, deputy and assistant in each department created by this act shall, before entering upon the discharge of the duties of his office, give bond, with security to be approved by the governor, not less in any case than ten thousand dollars, conditioned for the faithful performance of his duties, which bond shall be filed in the office of the secretary of state.

Sec. 11. Secretary make rules and regulations for department.—The secretary of each department is empowered to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its employees and clerks, the distribution and performance of its business, and the custody, use and perservation of the records, papers, books, documents and property pertaining thereto.

Sec. 12. Department offices—branches.—Each department shall maintain a central office in the capital at Lincoln, Nebraska, in rooms provided therefor. The secretary of each department may, in his discretion and with the approval of the governor, establish and maintain, at places other than the seat of government, branch offices for the conduct of any one or more functions of his department.

Sec. 13. Department offices—when open and close.—Each department shall be open for the transaction of business at least from eight o'clock in the morning until five in the evening of each day except Sundays and days declared by statutory enactment or Proclamation of President or Governor to be holidays.

Sec. 14. Official seal of department—Each department shall adopt an official seal.

Sec. 15. Hours of labor.—All secretaries, deputies, assistants and employees in the several departments shall render not less than eight hours of labor each day, Saturday afternoon, Sundays and days declared by statutory enactment or proclamation of the President or Governor to be holidays excepted.

Sec. 16. Leaves of absence.—Each secretary and appointee in the several departments shall be entitled during each calendar year to fourteen days leave of absence with full pay. In special and meritorious cases where to limit the annual leave to fourteen days in any one calendar year would work peculiar hardship, it may, in the discretion of the Governor, be extended.

Sec. 17. Payment for extra services—reports.—No secretary or employee in the several departments, employed at a fixed compensation, shall be paid for any extra services, unless expressly authorized by law. Each secretary of a department shall annually, on or before the first day of December, and at such other times as the governor may require, report in writing to the

governor concerning the condition, management, and financial transactions of his department.

Sec. 18. Co-ordination among departments.—The secretaries of departments shall devise a practical and working bases for co-operation and co-ordination of work, eliminating duplication and overlapping of functions. They shall, so far as practicable, co-operate with each other in the employment of help and the use of quarters and equipment.

Sec. 19. Receipts by departments—paid to state treasury.—The gross amount of money received by every department, from whatever source, belonging to or for the use of the state, shall be paid into the state treasury, without delay, not later in any event than ten days after the receipt of the same, without any deduction on account of salaries, fees, costs, charges, expenses or claims of any description whatever. No money belonging to or for the use of the state shall be expended or applied by any department except in consequence of an appropriation made by law and upon the warrant of the auditor of public accounts.

Sec. 20. Supplies—how purchased.—Supplies for the several departments, except in cases of emergency and in the case of perishable goods, shall be purchased in large quantities and contracts therefor shall be let to the lowest responsible bidder. Advertisements for bids for furnishing such supplies shall be published for at least three days in one or more English language newspapers, published in each of the five largest cities of the state determined by the then last preceding Federal census, and, also in one secular English language newspaper, selected by the department of finance by competitive bidding in the same manner as it is herein provided other contracts may be let, and designated as an "official newspaper", which newspaper so selected shall continue to be the official newspaper for a period of one year from the time of its selection. The proposals shall be publicly opened on the day and at the hour and place mentioned in the advertisement and any and all bids may be rejected and when rejected a readvertisement shall be made in the manner above provided; providing that no specification prepared for proposals to bid as herein provided shall call for private brands or particular manufacture.

Sec. 21. Powers of departments—carrier reciprocal duties.—Whenever in this act power is vested in a department to inspect, examine, secure data or information, or to procure assistance from another department, a duty is hereby imposed upon the department upon which demand is made, to make such power effective.

Sec. 22. Powers—duties—rights, documents and property of existing offices to be transferred to department.—Whenever rights, powers and duties, which have heretofore been vested in or exercised by any officer, board, commission, institution or department, or any deputy, inspector or subordinate officer thereof, are, by this act, transferred, either in whole or in part, to or vested in a department created by this act, such rights, powers and duties shall be vested in, and shall be exercised by, the department to which the same are hereby transferred, and not otherwise, and every act done in the exercise of such rights, powers and duties shall have the same legal effect as if done by the former officer, board, commission, institution or department, or any deputy, inspector or subordinate officer thereof. All books, records, papers, documents, property, real and personal, unexpended appropriations and pending business in any way pertaining to the rights, powers and duties so transferred to or vested in a department created by this act, shall be delivered and transferred to the department succeeding to such rights, powers and duties.

Sec. 23. Reports—notices—papers—documents—to be given and served upon department heads—saving clause.—Whenever reports or notices are now required to be made or given, or papers or documents furnished or served by any person to or upon any officer, board, commission, or institution or deputy, inspector or subordinate thereof, abolished by this act, the same shall be made, given, furnished or served in the same manner to or upon the department upon which are devolved, by this act, the rights, powers and duties now exercised or discharged by such officer, board, commission, or institution or deputy, inspector or subordinate thereof. This act shall not affect any act done, ratified or confirmed, or any right accrued or established, or any action or proceeding had or commenced in a civil or criminal cause before this act takes effect; but such actions or proceedings may

be prosecuted and continued by the department having jurisdiction, under this act, of the subject matter to which litigation or proceeding pertains.

Sec. 24. Investigations—power to administer oath, summon and compel the attendance of witnesses.—Each department created by this act shall have power through its secretary, any deputy or assistant or employee, when authorized by the secretary, to make a thorough investigation into all the books, papers and affairs of any person, firm or corporation when in the judgment of such département such examination is necessary to the proper performance of its duties and the efficient enforcement of the laws, within the purview of its power and authority fixed by this act, in so doing to administer oaths and affirmations and to examine on oath or affirmation any person, officer, agent or clerk of any firm or corporation touching the matters which in the judgment of such department, ought to be inquired into and to examine and to summon and by attachment compel the attendance of any person or persons in this state to testify under oath before such department or its secretary or any deputy or any assistant or employees thereof in relation thereto.

Sec. 25. Power of departments to administer laws assigned to them.—Except as otherwise provided by this act, each department shall have exclusive supervision, regulation and general control over the enforcement, execution and administration of the laws relating to the several subjects and matters assigned in this act to the departments respectively.

TITLE II.

THE DEPARTMENT OF FINANCE.

ARTICLE I.

GENERAL PROVISIONS.

Section 1. **General powers.**—The department of finance shall have power:

1. To prescribe and require the installation of a uniform system of bookkeeping, accounting and reporting for the several departments;

2. To prescribe forms for accounts and financial reports and statements for the several departments;

3. To supervise and examine the accounts and financial reports and statements for the several departments;

4. To examine, at any and all times, into accuracy and legality of the accounts, receipts and expenditures of the public moneys and the disposition and use of the public property by the several departments;

5. To keep such summary and controlling accounts as may be necessary to determine the accuracy of the detail accounts and reports from the several departments, and to prescribe the manner and method of certifying that funds are available and adequate to meet all contracts and obligations;

6. To prescribe uniform rules governing specifications for purchases of supplies, the advertisement for proposals, the opening of bids and the making of awards, to keep a catalogue of prices current and to analyze and tabulate prices paid and quantities purchased;

7. To examine, at any and all times the accounts of every private corporation, institution, association or board receiving appropriations from the legislature.

8. To report to the attorney general for such action, civil or criminal, as the attorney general may deem necessary, all facts showing illegal expenditures of the public money or misappropriation of public property.

9. To examine and approve, or disapprove, vouchers, bills and claims of the several departments and such as are by law made subject to the approval of the governor and referred to it by the governor, and no voucher, bill or claim of any department shall be allowed without its approval and certificate;

10. To prescribe the form of receipt, voucher, bill or claim to be filed by the several departments with it;

11. In settling accounts of the several departments, to inquire into and make an inspection of articles and materials furnished or work and labor performed, for the purpose of ascertaining that the prices, quality and amount of such articles or labor are fair, just and reasonable, and that all the requirements, expressed and implied, pertaining thereto have been complied with, and to reject and disallow any excess;

12. To prepare and report to the governor, when requested, estimates of the income and revenues of the state;

13. To publish, from time to time, for the information of the several departments and for the general public, bulletins of the work of the state government;

14. To investigate duplication of work of departments, and the efficiency of the organization and administration of departments, and to formulate plans for the better co-ordination of departments;

15. To prepare and submit to the Governor biennially, not later than the first day of February next after the election of the Governor a state budget.

ARTICLE II.

THE STATE BUDGET.

Section 1. **How prepared.**—In the preparation of the state budget, the secretary of finance shall, not later than the 15th day of September in the year preceding the convening of the regular session of the legislature, distribute to all departments and to all offices and institutions of the state government (including the elective officers in the executive departments and including the University of Nebraska, and normal schools, and

the judicial department) the proper blanks necessary to the preparation of the state budget estimate, which blanks shall be in such form as shall be prescribed by the secretary of finance, to procure, among other things, information as to the revenues and expenditures for the two preceding fiscal years, the appropriations made by the previous legislature, the expenditures therefrom, encumbrances thereon, and the amounts unencumbered and unexpended, an estimate of the revenues and expenditures of the current fiscal year, and an estimate of the revenues and amounts needed for the respective departments and offices for the two years next succeeding, beginning at the expiration of the first fiscal quarter after the adjournment of the legislature. Each department, office and institution (including the elective officers in the executive and judicial departments and including the University of Nebraska and normal schools) shall, not later than the first day of November file in the office of the secretary of finance its estimate of receipts and expenditures for the succeeding biennium. Such estimate shall be accompanied by a statement in writing giving facts and explanation of reasons for each item of expenditure requested. The secretary of finance may, in his discretion, make further inquiries and investigations as to any item desired. He may approve, disapprove or alter the estimates. He shall, on or before the first day of January next after the election of the governor, submit to the governor in writing his estimates of revenues and appropriations for the next succeeding biennium.

Sec. 2. Recommendation by governor based upon budget.—
The governor shall, as soon as possible, and not later than (than) February first next after the submission to him of the estimates of revenue and appropriations by the secretary of finance, as provided in the preceding section of this act, submit a state budget, embracing therein the amount recommended by him to be appropriated to the respective departments, offices, and institutions, and for all other public purposes, the estimated revenues from taxation, the estimated revenues from sources other than taxation, and an estimate of the amount required to be raised by taxation. Together with such budget the governor shall transmit the estimates of receipts and expenditures as received by the secretary of finance, of the elective officers in the

executive and judicial departments and of the University of Nebraska, and normal schools.

Sec. 3. **Departmental Estimates.**—Each department, shall, before an appropriation to such department becomes available for expenditure, prepare and submit to the department of finance an estimate of the amount required for each activity to be carried on, and the accounts shall be kept and reports rendered showing the expenditures for each such purpose.

ARTICLE III.

PURCHASES AND SUPPLIES.

Section 1. (**Sec. 3, Ch. 215, Laws 1917**) **Purchase of printed and stationery supplies for state.**—Within thirty days after this act goes into effect, and on or before the 10th day of January, April, July and October of each year thereafter, the secretary of finance, shall receive from the officers of each and every department of the state government and state institutions, all institutions under the board of commissioners of state institutions, and all departments therein, all state officers and each and every department created by this act, excluding the State University and normal schools, an estimate of the probable amount and kind of stationery, blanks, blank books, circulars, folders, catalogues, pamphlets, reports, and all other stationery or printed matter required by law to be contracted for by said departments, state officers and state institutions, for the biennium or any part thereof, and also an estimate of all office supplies, including rubber bands, pencils, pens, pen holders, ink, rubbers, typewriter supplies, typewriters and office stationery to be used during the period for which said estimate is made. Said estimate shall be in writing and shall specify in detail the kind, quantity and estimated cost of each of the different items mentioned and referred to in said estimate. The department of finance may require each institution or person filing said estimate to itemize in detail the amounts mentioned in said estimate. The department of finance is empowered to change or modify any of the above estimates in any manner which may appear to be for the best interests of the state.

Sec. 2. (Sec. 5, Ch. 215, Laws 1917.) Schedule for bids.—

The department of finance shall prepare a blank schedule, upon which all bids shall be made, enumerating the probable number, kind, form, style, size and quality of paper to be used; the size and style of type, the quality and style of binding, design or monogram, and all other details entering into and forming a part of the goods to be furnished, and, when requested so to do, shall furnish any competent printer doing business in the state a copy of said blank schedule. Said schedule shall also contain an itemized statement of the probable number, kind, form, style, size and quality of each article of office supplies and typewriter supplies to be used. Each bid shall be in accordance with the schedule and specifications and said department shall have power to require whatever bond, cash security or certified check from each and every bidder as it shall deem necessary to guarantee that the bidder will faithfully execute any contract he may be awarded.

Sec. 3. (Sec. 6, Ch. 215, Laws 1917) Contracts.—As soon as practicable thereafter, it shall be the duty of the department of finance to give notice to the successful bidder that his proposal has been accepted, and he shall, within five days thereafter, enter into contract with the state to furnish the same in accordance with the schedule and specifications. Should any bidder fail or neglect to enter into contract within the time herein specified, the contract shall be awarded in the same manner as herein specified to the next lowest and best bidder for the same kind of work, and in case any successful bidder fails to fulfill the conditions of his contract, the department shall, through the attorney general, proceed to recover from said failing party and sureties whatever damages the state may have sustained through said failure.

Sec. 4. (Sec. 8, Ch. 215, Laws 1917) Proof.—Each successful bidder shall furnish the department of finance with a proof sheet in page form in rotation if desired, and upon the completion of the contract shall deliver the printing, etc., to the department of finance or to such department officer, or to such department, officer or institution as the department of finance may direct and such delivery shall be made without cost to the state.

Sec. 5. (Sec. 9, Ch. 215, Laws 1917) Payment on contracts.

—Upon completion of each contract for any particular job of work required under any provision of this act, payment therefor shall be made to the proper contractor at the contract price upon vouchers certified to as “correct” by the department of finance, in the same manner as other accounts against the state are paid, out of any funds appropriated for that purpose by the legislature.

Sec. 6. (Sec. 10, Ch. 215, Laws 1917) Legislative supplies.

—The contractor for the printing of the senate files and house rolls or any kind of printing in bill form shall deliver the same completed to the office of the department of finance within three days after receiving the copy of the same, and any failure on the part of said contractor shall render him liable for damages in the sum of twenty-five (25) dollars for each and every failure, the amount to be deducted from his account on settlement. The contractor for printing and binding the laws shall deliver the same to the department of finance within sixty (60) days after the copy has been furnished, and the contractor for printing and binding the senate files and house rolls and journals shall deliver the same to the secretary within ninety (90) days after receiving the copy thereof. No contractor, however, shall be held accountable for any delay occasioned by holding proof sheets.

Sec. 7. (Sec. 11, Ch. 215, Laws 1917) Department purchase all supplies.—All stationery, office supplies and printing of every kind for any state officer, institution or organization not herein enumerated shall pass through the hands of and shall be purchased by the department of finance in the same manner as herein provided; except, however, when an emergency arises for the immediate furnishings of any stationery, office supplies or printing, the cost of which shall not exceed the sum of twenty-five (25) dollars, the department shall have the power, if, in its judgment, the same cannot be deferred, to furnish said stationery, office supplies or printing at the lowest and best competitive price, at any time between the dates fixed in section 1 of this article for the letting of contracts; but no claim for any such supplies or printing shall be paid unless accompanied by a requisition from the state officer or institution ordering the same, together with the certified voucher as hereinbefore provided.

Sec. 8. (**Sec. 12, Ch. 215, Laws 1917**) **Legislative supplies—Copy.**—The clerks of the respective branches of the legislature shall each furnish each to the department of finance a copy of the bills, journals, memorials, documents, resolutions and all other matters ordered printed for the use of the legislature.

Sec. 9. (**Sec. 13, Ch. 215, Laws 1917**) **Same.**—Immediately upon the adjournment of any session of the legislature the department of finance shall carefully invoice and store away and preserve in a storage room especially provided for that purpose in the capitol all manner of legislative supplies then on hand, except fixtures in the respective legislative halls, a copy of said invoice to be filed with the secretary of state, which said copy shall be delivered to the speaker of the house at the following session, and all such supplies shall be preserved under lock for the use of the next legislature.

Sec. 10. (**Sec. 16, Ch. 215, Laws 1917**) **Legislative acts—department to publish.**—It shall be the duty of the department of finance to classify and arrange for publication, the laws, joint resolutions, and memorials passed at each session of the legislature.

Sec. 11. (**Sec. 19, Ch. 215, Laws 1917**) **Penalty for violating an act.**—Any person connected with or employed by any of the institutions or departments referred to in this title, who orders any of the articles mentioned or referred to in this title, or any person who shall violate any of the provisions of this title, shall be guilty of a misdemeanor and shall, upon conviction, be fined in any sum not exceeding one hundred (\$100) dollars or be imprisoned in the county jail for a period not exceeding three months, and a second conviction in addition to the aforesaid penalty, shall be ground for removal from office of the person so convicted and the governor may direct the attorney general to proceed in quo warranto to oust said officer from office. All contracts entered into or orders given by any person or persons for any of the articles or items mentioned in section 1 of this title to be paid for either directly or indirectly out of the funds of the state of Nebraska, are void and unenforceable, unless said orders or contracts are entered into in the manner provided for in this title.

ARTICLE IV.

SUPERVISORY POWERS OVER TAXATION.

Section 1. **General Powers.**—It shall be the duty of the department of finance and it shall have power and authority:

1. To have and exercise general supervision over the administration of the assessment and tax laws of the state, over the county, precinct, township, city, and village assessors, boards of county commissioners, county boards of equalization, and all other boards of levy and assessment, to the end that all assessments of property, real, personal, and mixed, be made relatively just and uniform; to require all township and city assessors, county commissioners and county boards of equalization, under a penalty of forfeiture and removal from office as such assessors or boards, to assess all property of every kind and character at one-fifth of its actual and full cash market value.

2. To confer with, advise and prescribe the rule for assessors, boards of commissioners, boards of equalization and others obligated under the law to make levies and assessments, as to their duties under the statutes of the state.

3. To direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the penalties, liabilities and punishment of public officers, persons and officers or agents of corporations for failure or neglect to comply with orders of the department, or with the provisions of the statutes governing the return, assessment and taxation of property; and to cause complaints to be made against township, county, precinct, city and village assessors, county commissioners, county boards of equalization, or other assessing or taxing officers in the courts of proper jurisdiction, for their removal from office for official misconduct or neglect of duty.

4. To require the attorney-general, or county attorneys in their respective counties, to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals and punishments for violations of the laws of the state in respect to the assessment and taxation of property, or to represent the department in any litigation in which it may become involved in the discharge of its duties.

5. To require township, precinct, village, city, county, state or other public officers to report information as to the assessment of property, collection of taxes, receipts from licenses, and other sources, the expenditures of public funds for all purposes, and such other information as may be needful or desirable in the work of the department in such form and upon such blanks as the department may prescribe; to make and prosecute such research and investigation as to the detailed properties of corporations, and the business, income, reasonable expenditures and true values of the franchise and properties of all public-service corporations doing business in this state, as will result in a fair and equitable basis of assessing the same and making and recommending proper legislation to the legislature, from time to time, and to prescribe rules for the local assessing and taxing officers in making such assessments.

6. To require individuals, partnerships, companies, associations, joint-stock companies and corporations to furnish information concerning their capital, funded or other debts, current assets and liabilities, value of property, earnings, operating and other expenses, taxes and other charges, and all other facts which may be needful or desirable to enable the department to ascertain the value and relative burdens borne by all kinds of property in the state.

7. To cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested parties, if any, in like manner as depositions of witnesses are taken in civil actions pending in the district court, in any manner which the department shall have authority to investigate and determine.

8. To investigate the work and methods of local assessors, boards of county commissioners and county boards of equalization in the assessment, equalization and taxation of all kinds of property.

9. To carefully examine into all cases where evasion of violation of the laws for assessment and taxation of property is alleged, complained of, or discovered, and to ascertain wherein existing laws are defective, or are improperly or negligently administered, and to prepare and recommend measures best calculated to remedy the defects discovered.

10. To investigate the tax systems of other states and countries, and to formulate and recommend such legislation as may be deemed expedient to prevent evasion of assessments and tax laws, and to secure just and equal taxation and improvement in the system of taxation in the state.

11. To inquire into the system of accounting and auditing public funds in use in townships, cities, counties, and state and to devise and prescribe a uniform system of auditing and accounting of the receipts and disbursements of public funds in the municipalities of the state.

12. To transmit to each member of the legislature, thirty days before the meeting of the legislature, the report of the department covering the subject of assessment and taxation, the results of the investigations of the departments, its recommendations for improvement in the system of taxation in the state, together with such measures as may be formulated for the consideration of the legislature.

13. To require any county board of equalization, at any time after its adjournment, to reconvene and to make such orders as the department shall determine are just and necessary; to order and direct any county board of equalization to raise or lower the valuation of any class or classes of property; and generally to do and perform any act or to make any order or direction to any county board of equalization as to the valuation of any class of property in any county which, in the judgment of said department, may seem just and necessary, to the end that all property shall be valued and assessed in the same manner and to the same extent as any and all other property, real or personal, required to be listed for taxation.

14. All proceedings taken and action had by the department of finance in reference to taxation as in this Article provided, shall be reported by said department to, and be subject to review by the State Board of Equalization.

TITLE III.

THE DEPARTMENT OF AGRICULTURE.

ARTICLE I.

GENERAL POWERS.

Section 1. **Power enumerated.**—The department of agriculture shall have power:

1. To encourage and promote, in every practicable manner, the interests of agriculture, including horticulture, the live stock industry, dairying, cheese making, poultry, bee keeping, forestry, fishing, the production of wool, and all other allied industries;

2. To promote methods of conducting these several industries with a view to increasing the production and facilitate the distribution thereof at the least cost;

3. To collect and publish statistics relating to crop production, marketing and farm economics, the production and marketing of beef, pork, poultry, fish, mutton, wool, butter, cheese and other agricultural products so far as such statistical information may be of value to the agricultural and allied interests of the State; to co-operate with the Federal Government in the matter of collecting such statistical information. Such department shall include in its publications the reports of agricultural, horticultural and like societies, and of live stock associations. Such published statistics shall be the official agricultural statistics of the state;

4. To encourage the planting of trees and shrubs and the improvement of farm homes generally;

5. To produce and manufacture biological products to be distributed to live stock producers at the actual cost thereof;

6. To inquire into causes of contagious, infectious and communicable diseases among domestic animals, and the means for the prevention and cure of the same;

7. To take all measures necessary for the preservation, distribution, introduction and restoration of fish, game birds and other wild birds;

8. To see that live stock and stock yards, and other like places where live stock is confined, housed or fed, are properly cared for;

9. To execute and enforce all laws relating to the inspection of foods, drugs, dairy products, oils, commission merchants, cider and vinegar, oleomargarine and butterine, sanitation of premises used for manufacturing and preparation of foods, cold storage ware-houses, points, seeds, commercial feeding stuffs, live stock remedies, hotels and inns, weights and measures and commercial fertilizers, and from time to time promulgate such rules and regulations and adopt such standards of food products as are necessary and proper to enforce the provisions of this title.

ARTICLE II.

LIVE STOCK.

Section 1. **(S. 145) Duties—powers.**—The department of agriculture shall be vested with the power and charged with the duties of protecting the health of live stock in Nebraska, of determining and employing the most effective means for the prevention and eradication of contagious and infectious diseases, of quarantining when necessary, and of regulating the arrival into, and departure from, and movement within the state of animals infected or exposed to infection or contagion.

Sec. 2. **(S. 153) Penalty for harboring diseased animals.**—Any person who shall violate any quarantine regulation established by the department of agriculture or who shall knowingly harbor, or sell any animal afflicted with infectious or contagious disease shall, upon conviction, be fined not less than fifty (\$50.00) dollars, nor more than one thousand (\$1000.00) dollars for each offense.

Sec. 3. **(See Sec. 152 to 154) Diseased animals examined and appraised.**—Whenever any horse, or mule shall be found, by any authorized agent of the department of agriculture, after inspection, to be afflicted with glanders or duraine, its value shall, within twenty-four hours thereafter, be determined by three appraisers, one of whom shall be selected by the secretary of agri-

culture, one by the owner of the horse or mule, and the third by the two so selected.

Sec. 4. Killing diseased animals—compensation.—The owner of the horse or mule so afflicted shall, immediately after the determination of its value as in this article provided, kill the same, and, on presentation to the auditor of the state of Nebraska of evidence that the provisions of this article have been complied with, that the animal killed was at least one year old and had, in good faith been owned and kept within the state for one year, be entitled to reimbursement from the treasury of the state in the sum of two-thirds of the appraised value of such horse or mule but not to exceed \$133.33 for any one horse or mule killed.

Sec. 5. (Chap. 159, Sec. 1, 1917) Scabies cattle—shipping prohibited.—No person shall ship, trail, drive or otherwise move, or allow to be moved, or allow to drive from one county in the state to any other county in the state, or to any other state, cattle which are affected with scabies, except as hereinafter provided.

Sec. 6. (Chap. 159, Sec. 2, 1917) Same—quarantine.—The department of agriculture is hereby authorized to place in quarantine any county, or part of any county, or any private premises, or private or public stock yards, where cattle affected with scabies are or have been kept, and hold such premises in quarantine until such cattle so affected have been properly treated or dipped and such premises thoroughly cleaned and disinfected. The department is hereby authorized to prescribe rules and regulations which shall provide the method and manner in which such treatment or dipping, and such cleaning and disinfecting shall be done; and shall hire or secure such assistants or inspectors as may be necessary to supervise such treatment, or dipping and such cleaning and disinfecting. No cattle shall be trailed, shipped, driven or delivered to any transportation company for shipment to any place outside of such quarantined area unless such cattle have been inspected by an inspector of the Bureau of Animal Industry, or an inspector employed or authorized by the department to make such inspections, and when such cattle are found to be free from such infection. Affected cattle may, however, after being dipped once, be shipped to a market center, under quarantine, and there be slaughtered, or they may be

dipped again at the market ten days after the first dipping and shipped anywhere.

Sec. 7. (Chap. 159, Sec. 3, 1917) Inspection—dipping.—Whenever any inspector or person employed or authorized by the department to make inspections for scabies in cattle, shall find cattle so affected, he shall at once notify the owner, or his agent and such owner or his agent or the person having possession of such cattle, shall treat or dip them if ordered by the department or its duly authorized agents, in the manner prescribed by the rules and regulations of the department, and approved by the Chief of the Bureau of Animal Industry of the United States. Such cattle shall be held in strict quarantine at a place prescribed by the department, until treated or dipped as required and the premises cleaned and disinfected, if such cleaning and disinfecting be deemed necessary by the department of agriculture. When any person in control of, or caring for such live stock shall fail or refuse to dip, or otherwise treat such cattle, or disinfect premises, at the time and in the manner prescribed or directed by the department, then the department shall have the power to call upon the sheriff of the county in which such live stock is found, and the sheriff, together with a representative of the department, shall dip or otherwise treat such cattle in the manner and at the time directed by the department and the sheriff shall keep such cattle in his custody until they are treated or dipped. Such cattle may be held by said officer until the costs of such treatment or dipping are paid. Any officer who shall seize cattle for dipping or treatment shall be liable to the owner thereof for damages caused by his negligence.

Sec. 8. (Sec. 4, Ch. 159, 1917) Violation—penalty.—Any person who shall violate any of the provisions of this article shall, upon conviction thereof, be fined in any sum not less than two hundred and fifty (\$250.00) dollars nor more than five hundred (\$500.00) dollars, or shall be confined in the county jail not less than thirty (30) days nor more than ninety (90) days, or both.

Sec. 9. (Chap. 161, Sec. 1, 1917.) Hog cholera serum manufacturer—sale regulated.—No person shall sell, barter or exchange, carry, give away, ship or deliver for shipment hog cholera serum or virus within the state of Nebraska, unless such person shall hold an uncanceled, unexpired United States Gov-

ernment Veterinary License, issued by the United States Department of Agriculture, or a permit unexpired and uncanceled, issued by the department of agriculture of Nebraska.

Sec. 10. **Hog cholera containers—labeling.**—Each container of hog cholera serum or virus shall have thereon a label showing the name of the manufacturer, the date of its manufacture, and the date when its potency is regarded as uncertain, the date of sale and delivery, the name of purchaser and the name of the vendor.

Sec. 11. **Manufacture and distribution of serum—permit required.**—No person shall manufacture or distribute hog cholera serum or virus in the state of Nebraska without first making application to the department of agriculture for and receiving a permit to transact such business.

Sec. 12. **Bond—permit issued.**—If the department is satisfied that the applicant possesses the requisite skill and upon his furnishing a bond in the sum of five thousand (\$5,000) dollars, to be approved by the department, it may issue to the applicant a permit to sell hog cholera serum or virus, within the state for a period of one calendar year, or part thereof. The department shall prescribe the standard of potency for hog cholera serum and virus. The permit may at any time be changed, or it may be revoked for cause.

Sec. 13. **Conditions of bond.**—The bond of the applicant shall be conditioned that the applicant shall forfeit to the state of Nebraska the sum of one thousand (\$1,000) dollars, and in addition thereto the expense of collecting the same whenever upon inspection, it shall be ascertained that any serum or virus, sold or used, or kept for sale or distribution or offered for sale by him, is below the standard of potency, prescribed by the department of agriculture.

Sec. 14. **Test of serum.**—Section 9 shall not apply to persons, who have complied fully with the regulations and orders of the department of agriculture and shall have received a permit to sell serum or virus in this state and who have first, if requested to do so, submitted a sample of any serum or virus offered for sale, and the department has, upon completion of the test of any serum or virus, found it to be of a standard degree

of potency, satisfactory to said department, and provided the department has issued a permit for such serum or virus to be sold within the state.

Provided, that the department of agriculture may or may not test any such serum or virus, and may permit to be sold any serum or virus, without being tested by such department.

Sec. 15. **Blanks for reports by purchasers.**—All persons selling serum or virus in this state, shall furnish purchasers a sufficient number of blanks on which to report the results of vaccination of all hogs treated, and report to the department of agriculture at the end of each month on forms to be prescribed by the department, all sales of serum and virus, the names and addresses of purchasers, and dates of shipment.

Sec. 16. **Record by persons administering serum.**—Any person who shall administer hog cholera serum or virus, shall keep an accurate record showing the number of hogs vaccinated, for whom vaccinated, the name of the manufacturer, serial numbers, the number of hogs having over 104 degrees of temperature, the number of hogs visibly sick, the average weight of all classes vaccinated, the average dosage, the total amount of serum or virus used, and the method of vaccination employed. A report shall be made at the end of thirty days after vaccination to the department of agriculture, by the owner of such hogs, showing their general condition, the manner in which they were fed, and cared for, and the number, if any, that died within the thirty-day period after vaccination.

Sec. 17. **Standard of potency.**—No hog cholera serum or virus shall be sold or offered or kept for sale, in the state of Nebraska, which is below the standard test of potency established by the department of agriculture, nor shall such inferior serum or virus be used, except for experimental purposes, at the place of manufacture. It is further provided that the serum plant, owned and operated by the state, shall come under the same requirements as other plants doing business in the state of Nebraska.

Sec. 18. **Violation—penalty.**—Any person violating any provision of this article shall on conviction thereof be fined in any sum not less than one hundred (\$100) dollars, nor more than one thousand (\$1000) dollars.

Sec. 19. **(See Ch. 160, Laws 1917) Foot and mouth disease—animals—value.**—Whenever any domestic animal shall be found, by an authorized agent of the department of agriculture, after inspection, to be afflicted with the foot and mouth disease, its value shall within twenty-four hours thereafter, be determined by three appraisers, one of whom shall be selected by the secretary of agriculture, one by the owner of the animal afflicted and the third by the two so selected.

Sec. 20. **Owner to kill—when.**—The owner of any animal so afflicted shall immediately after the determination of its value as provided in the preceding section, kill the same and dispose of the carcass, and he shall thereupon disinfect, in the manner required by the department of agriculture, the premises occupied by such animal.

Sec. 21. **Reimbursement for diseased animals killed.**—The owner of any animal killed as provided in the preceding section of this article, shall on presentation to the auditor of the State of Nebraska of evidence that the provisions hereinbefore set forth have been complied with and that the animal had been kept and owned within this state for six months prior to being killed, be entitled to reimbursement from the treasury of the state in the sum of two-thirds of the value of such animal, but not to exceed \$66.67 per head for cattle, \$4.67 per head for sheep and 4.67 cents per pound for swine.

ARTICLE III.

STALLION REGISTRATION LAW.

(Chap. 169, Session Laws, 1915)

Section 1. **Inspection of stallions, etc.—duties and powers of department.**—It shall be the duty of the Department of agriculture to protect the health of live stock in Nebraska, to determine and employ the most efficient means for the prevention and eradication of contagious and infectious diseases of live stock, to exercise by authority of State Veterinarian the power of quarantine when necessary, and to regulate the arrival into and departure from the state, or any point therein, of animals infected or having been exposed to infection, and supervise the

inspection of stallions and jacks as provided by law. Provided, this section shall not apply to live stock brought into Nebraska for immediate slaughter, and therefore subject to government regulations. Whenever possible the department shall co-operate with the United States Government in enforcing federal regulations.

Sec. 2. **Stallion certificate.**—Every owner or keeper of any stallion or jack kept for sale, transfer, exchange, or public service, who represents such stallion or jack to be fit for service, shall procure a certificate and keep the same, or an exact copy thereof, posted in a conspicuous place within every barn, shed or building in which such stallion or jack is kept for service and shall mention the same in all advertisements, as herein provided. Such certificate shall be procured from the department as provided by this article.

Sec. 3. **Record.**—In order to obtain such certificate, there shall be presented to said department, an affidavit signed by a qualified veterinarian who is not interested in the buying or selling of horses who has been appointed by the State Veterinarian, (said veterinary surgeon may be disqualified for cause) to the effect that he has personally examined such stallion or jack and that to the best of his knowledge and belief such stallion or jack is free from such hereditary, infectious, contagious or transmissible diseases as: Urethral gleet, melanosis, periodic ophthalmia (Moon blindness), laryngeal hemiplegia (roaring), dourine, glanders, farcy, or serious defects in general conformation, and, if the stallion or jack is pure bred, there shall be presented to the inspector for his examination and comparison also a certificate of registration of such stallion issued by one of the following foreign stud books, and associations recognized by the Department of Agriculture in the Bureau of Animal Husbandry, Order No. 175, November 25, 1910, and amendment number one thereto, December 30, 1910:

“A”

Name of breed. Book of Record	Association, Society or Company
Belgian Draft—Stud Book des Chevaux de Trait Belgose.	Aocitet le Cheval de Trait Belge, Chevalier G. Hynderick, Sec’y, Brussels, Belgium.
Clydesdale—Clydesdale Studbook.	Clydesdale Horse Society of the United Kingdom of Great Britain and Ireland, Archibald MacNeillage, Sec’y, 93 Hop St., Glasgow, Scotland.
French Draft—Studbook des Chevaux de Trait Francias.	Societe des Agricultures de France, Henri Johanet, Sec’y, 8 Rue d’ Athenes, Paris, France.
Hackney—Hackney Studbook.	Hackney Horse Society, Frank F. Buren, Sec’y, 12 Hanover So., London, W. England.
Percheron—Studbook Percheron de France.	La Societe Hippique Percheronne de France, E. Lomaire, Sec’y, Nogent de Rotrou, France.
Shetland Pony—Shetland Pony Studbook.	Shetland Pony Studbook Society, R. W. Walker, Sec’y, 3 Golden Sq., Aberdeen, Scotland.
Shire—Shire Horse Society.	Shire Horse Society, J. Sloughgrove, Sec’y, 12 Hanover Sq., London, W. England.
Suffolk—Suffolk Studbook.	Suffolk Horse Soc’y, Fred Smith, Sec’y, Rendelsham, Woodbridge, Suffolk, England.
Thoroughbred—Australian Studbook, General Studbook.	W. C. Yuille & Sons, Melbourne, Aust. Weatherby & Sons, 6 Old Burlington St., London, W. England.

Welsh Pony & Cob—Welsh Pony & Cob Studbook.	The Welsh Pony & Cob Society, John R. Bache, Sec'y, Knighton, Randnorshire, Wales.
Belgian Draft—Canadian Clydesdale—National Hackney—Records Shire Suffolk Welsh Pony & Cob	Canadian Nat'l Records, Secre- tary, Ottawa, Canada.

The stud books and signatures of the authorized officers of the following American Horse and Jack Pedigree Registry Association, Societies or Companies.

“B”

Name of Breed, Book of Record	By Whom Published.
Arabian—Studbook of the Arabian Horse Club of America.	Arabian Horse Club of America, H. K. Bush-Brown, Sec'y, New- burgh, N. Y.
Belgian Draft—American Register of Belgian Draft Horses.	American Association of Import- ers and Breeders of Belgian Draft Horses, J. C. Connor, Jr., Sec'y, Wabash, Ind.
Cleveland Bay—American Cleveland Bay Studbook.	Cleveland Bay Society of Ameri- ca, R. P. Stericker, Sec'y, Ocono- mowoc, Wis.
French Draft—National Register of French Horses.	National French Draft Horse As- sociation of America, O. E. Stubbs, Sec'y, Fairfield, Ia.
Clydesdale—American Clydesdale.	American Clydesdale Association, R. B. Ogilvie, Sec'y, Union Stock Yards, Chicago, Ill.

French Coach—French Coach Studbook.	French Coach Horse Society of America, Duncan R. Willet, Sec'y, Maple Ave. and Harrison St., Oak Park, Ill.
German Coach, Oldenburg—German Hanoverian and Oldenburg Coach Horse Studbook.	German Hanoverian and Oldenburg Coach Horse Association of America, J. Crouch, Sec'y, Lafayette, Ind.
American Hackney Studbook.	American Hackney Horse Society, Curney C. Cue, Sec'y, 308 W. 97th St., New York City.
Jacks and Jennets—American Jack Stock Studbook.	American Breeders Association of Jacks and Jennets, J. W. Jones, Sec'y, Columbia, Tenn.
Percheron—Percheron Studbook of America.	Percheron Society of America, Wayne Dinsmore, Sec'y, Union Stock Yards, Chicago, Ill.
Percheron—Percheron Register.	The Percheron Registry Company, Chas. G. Glenn, Sec'y, 1319 Wellsley Ave., Columbus, Ohio.
Percheron—The American Breeders and Importers Percheron Register.	The American Breeders and Importers Percheron Registry Company, John A. Forney, Sec'y, Plainfield, Ohio.
Shetland Pony—American Shetland Pony Club Studbook.	American Shetland Pony Club, Miss Julia M. Wade, Sec'y, Lafayette, Ind.
Shire—American Shire Horse Studbook.	American Shire Horse Association, Chas. Burgess, Sr., Sec'y, Wenona, Ill.
Suffolk—American Suffolk Horse Studbook.	American Suffolk Horse Association, Alexander Galbraith, DeKalb, Ill.

Thoroughbred—American Studbook.	The Jockey Club, W. H. Rowe, Registrar, 571 Fifth Ave., New York, N. Y.
Welsh Pony & Cob—Welsh Pony & Cob Studbook.	The Welsh Pony & Cob Society of America, John Alexander, Sec'y, Aurora, Ill.
American Trotter—American Trotting Register.	American Trotting Register Association, W. H. Night, Sec'y, 137 So. Ashland Boulevard, Chicago, Illinois.
Morgan—American Morgan Register.	American Morgan Register Association, T. E. Boyce, Sec'y, Middlebury, Vermont.
Saddle Horse—American Saddle Horse Register.	American Saddle Horse Breeders Association, I. B. Hall, Sec'y, Louisville, Ky.
Jacks & Jennets—Standard Jack Studbook.	Standard Jack & Jennet Registry, Wm. E. Morton, Sec'y, Kansas City, Mo.

The said department shall accept as pure bred, entitled to a license certificate as such, each stallion or jack for which a pedigree registry certificate is furnished the inspector, bearing the signature of the duly authorized officers of one of the above named associations, societies or companies.

Sec. 4. **Certificates—Form.**—The certificates for stallions shall be of two forms, one for pure bred, and one for grades. Each certificate shall state the name of the stallion or jack, and if pure bred, the registered number and the name of the studbook in which such stallion or jack is registered. Each certificate shall bear the name of the importer or breeder, the name of the present owner, a description of the color, the year foaled and inspector's statement as to whether said stallion or jack is sound or unsound. If unsound the certificate shall contain the names of the diseases, the location of which shall be indicated by means of a small diagram of a stallion properly marked by the inspector.

Each certificate shall bear the signatures of the inspector, the deputy state veterinarian, the secretary of the department and shall have attached thereto the official seal of said department. A grade shall be defined as a stallion or jack whose owner presents the affidavit of two persons that said grade has either a sire or dam of pure breeding.

Sec 5. **Certificates refused—when.**—No stallion or jack which may come into the State of Nebraska, after this section shall take effect, shall be given a certificate if such stallion or jack is affected with one or more of the following diseases, namely: Urethral gleet, melanosis, periodic ophthalmia (Moon blindness), laryngeal himiplegis (roaring), cataract, amaurosis (glass eye), Chorea (St. Vitus dance), string halt, bone spavin, bog spavin, ring bone, side bone, curb, with curby formation of hock, contagious or infectious diseases, or is seriously defective in conformation, or vicious disposition.

Sec. 6. **Examinations—when made.**—Every stallion and jack shall be examined between the age of two and three years, and again between the age of five and six years. At time of first examination, a certificate shall be given, good for one year, for which a fee of \$3.00 shall be paid. For the years intervening between such inspections as herein provided, a duplicate certificate shall be secured for which a fee of \$1.00 shall be paid, for each transfer of ownership, twenty-five cents. At the time of second inspection, a certificate good for life will be given for which a fee of \$3.00 shall be paid. Additional duplicate certificates will be furnished at any time for 25 cents each.

Provided, that any certificate or duplicate may be revoked at any time if stallion or jack shall be found to be afflicted with melanosis, periodic ophthalmia, or any contagious or infectious disease or for any other good cause. Provided, further, that all money collected shall be turned into the State Treasury and the same is hereby appropriated for the use of the department for the biennium, ending March 31st, 1917, to be used in carrying out the provisions of this article.

Sec. 7. **Post certificate.**—Every owner or keeper of a stallion or jack kept for service shall keep posted the certificates issued by the department or a copy of the same, during the en-

tire breeding season, in a conspicuous place within every shed or building in which such stallion or jack is kept for service.

Sec. 8. **Advertisement of grade stallion.**—No owner or keeper of a stallion not of pure breeding shall permit the printing, publishing or circulating of any bill, poster card, newspaper advertisement or other advertisement calling attention to said stallion as a breeder, unless the same shall have the words "grade stallion" in 48 point type immediately preceding such name.

Sec. 9. **Record of certificate.**—It shall be the duty of the department to keep a record of all certificates and the issuance, refusal or revocation of the same.

Sec. 10. **Sale of stallion—new certificate.**—If the owner of the stallion or jack shall sell, exchange or transfer the same, said department shall upon receiving the certificate in force at the time of the sale and satisfactory proof of such change in ownership, issue to the new owner a certificate of transfer of ownership.

Sec. 11. **Annual reports of board.**—The department shall publish an annual report which shall be made to and issued as a bulletin from the office of the department. Said annual report shall contain an alphabetical list of stallions and jacks which have been granted certificates and full and complete account of all money received and expended.

Sec. 12. **Violation—penalty.**—Any person, firm or corporation who shall violate any of the provisions of this article shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars or be imprisoned in the county jail not exceeding thirty days, or both such fine and imprisonment, in the discretion of the court.

Sec. 13. **Form of certificates lawful.**—All inspections made and certificates issued by the Nebraska Stallion Registration Board are hereby ordered recognized as valid by this department the same as though inspection had been made under this law.

Sec. 14. **Form of certificate.**—The following is a copy of the certificate that will be issued for pure bred stallions, and similar certificates will be issued for grade stallions and jacks:

STATE OF NEBRASKA DEPARTMENT OF AGRICULTURE.

License Certificate No.....

Pure Bred Stallion.

The pedigree of the stallion.....

Bred by.....P. O.....

State.....

Owned by.....P. O.....

Nebraska.

Foaled Color.....

Weight Height

has been examined by the department and it is hereby certified that the said stallion is pure breeding and is registered as No. in the..... Studbook recognized by the laws of Nebraska. The above named stallion has been examined by a qualified veterinarian who reports as follows:

I have this day examined the pure bred stallion named No. and to the best of my knowledge and belief said stallion is free from urethral gleet, melanosis, periodic ophthalmia, laryngeal hemiplegia, and serious defects in general conformation. I further certify that said stallion is sound except indicated in the diagram below:

(Diagram of horse here).....

State Stallion Inspector.

Said stallion is hereby licensed to stand for public service in the State of Nebraska during the season of the calendar year 19.....

Dated at Lincoln, Nebraska, this..... day of, 19.....

Department of Agriculture.

Deputy State Veterinarian and Secretary.

Sec. 15. **Fees—paid into state treasury.**—All fees collected in the enforcement of this article shall be paid into the general fund of the state.

Sec. 16. **Saving clause.**—Nothing in this article shall be construed to release any person from punishment of liability for any acts heretofore committed, under existing statutes.

ARTICLE IV.

GAME AND FISH.

Section 1. (**R. S., Sec. 2653**) **Duties and powers of department.**—The department of agriculture shall have general supervisory authority over and general control of:

1. (2653) The protection, propagation and breeding of such fish and game, song, insectivorous and other birds as may be deemed valuable to the people of the state;

2. The collection and distribution of such statistics and information as may be deemed useful respecting the protection and propagation of fish and game, song, insectivorous and other birds, and to take charge of and preserve all books, records, and documents pertaining to the subject which may come into its possession or under its control;

3. The control and management of all state fish hatcheries and grounds therefor, together with all buildings, ponds, apparatus of every kind, and all other property belonging to or used by the state in the propagation of fish.

4. The enforcement of all laws of the state for the protection, preservation and propagation of fish and game, song, insectivorous and other useful birds.

Sec. 2. (**R. S. Sec. 2656 and 2657**) **Duties of department and assistants.**—All deputies, assistants and employees who are provided by the department of agriculture in the enforcement of the provisions of this article, are hereby made officers of the state with the powers of sheriffs and constables while acting within the line of their official duties, with authority to make arrests and to serve all writs and processes, civil and criminal, in the enforcement of this article, and to charge therefor and collect the fees allowed by law for like services by sheriffs and constables, and it shall be the duty of every such officer, as well as the sheriffs and constables in their respective counties, with

or without a warrant, to arrest any person whom he has reason to believe guilty of a violation of the provisions of this article; and, with or without a warrant, to open, enter and examine all camps, wagons, cars, stages, tents, packs, warehouses, stores, out-houses, stables, barns, and other places, boxes, barrels, and packages where he has reason to believe any fish or game, song, insectivorous or other birds, taken or held in violation of this article, are to be found, and to seize the same: Provided, a dwelling house actually occupied can be entered for examination only in pursuance of a warrant.

Sec. 3. (**R. S. Sec. 2658**) **Disposition of game seized—of prisoner.**—Where fish or game, song, insectivorous or other birds are seized under this article, the officer making such seizure shall have authority, upon payment of reasonable compensation therefor, to also take possession of and use any animal and vehicle used in such transportation for the purpose of conveying the fish or game, song, insectivorous or other birds seized, to a convenient railroad station or place of safe keeping for sale, and also for conveying any person arrested for the unlawful possession of such fish or game, song, insectivorous or other birds to a place of hearing or trial, and no liability shall attach to such officer by reason thereof, but this section shall not apply to any animal or vehicle while being used as a public conveyance for passengers or mails, or to any railroad car.

Sec. 4. (**R. S. Sec. 2659**) **Actions.**—The department of agriculture may if it so elect bring and maintain a civil action in the name of the state for the possession of any fish or game, song, insectivorous or other birds taken, killed or held in violation of this article, or for the value thereof, against any person in possession or exercising control over the same, and if required by the department a writ of replevin shall issue therein without bond. No previous demand for possession shall be necessary. Neither the pendency of such action nor of a criminal prosecution for the same taking, killing or possession, shall be a bar to the other, nor shall anything in this section affect the right of seizure under the provisions of this article.

Sec. 5. (**R. S., Sec 2660**) **Game—public property.**—All fish or game, song, insectivorous or other birds now or hereafter

within this state not held by private ownership legally acquired, and which for the purposes of this article shall include all the quadrupeds, birds and fish mentioned herein, are hereby declared to be property of the state, and no right, title, interest or property therein can be acquired or transferred, or possession thereof had or maintained, except as herein expressly provided.

Sec. 6. (**R. S., Sec. 2661**) **Same—defined.**—As used in this article and unless otherwise specifically restricted or enlarged, the word “game” includes all the quadrupeds and birds, and the word “fish” includes all the fish mentioned herein and now or hereafter within this state and not held by private ownership, legally acquired.

Sec. 7. (**R. S., Sec. 2662**) **Definitions—limitations.**—As used in this article, unless otherwise specifically restricted or enlarged, the words “herein” and “hereof” refer to the whole article; the words “person”, “owner”, “proprietor”, “grantee”, “lessee”, or “licensee”, include a firm, association, corporation or municipality, the word “department” means the department of agriculture or its deputies, assistants, or employees; the word “officer” includes every person authorized to enforce this article; and whenever the possession, use, importation, transportation, storage, taxidermy for millinery purposes, sale, offering or exposing for sale of fish or game, song, insectivorous or other birds is prohibited or restricted, the prohibition or restriction shall when not specifically otherwise provided, extend to and include every part of such fish or game, song, insectivorous or other bird, and a violation as to each individual animal or bird or part thereof shall be a separate offense, and two or more offenses may be charged in the same complaint, information or indictment, and proof as to a part of an animal shall be sufficient to sustain a charge as to the whole of it; and violations as to any number of animals or birds of the same kind may be charged in the same county and published as a separate offense as to each animal.

Sec. 8. (**R. S., Sec. 2663**) **Evidence—possession.**—The possession at any time of fish or game, song, insectivorous or other birds unaccompanied by a proper and valid license, certificate, permit or invoice, as herein provided, shall be prima facie evidence that such fish or game, song, insectivorous or other birds

was unlawfully taken and is unlawfully held in possession and it shall be the duty of every person having the possession or control of fish or game, song, insectivorous or other birds, to produce the proper license, certificate, permit or invoice, when one is required by this article, on demand of any officer, and to permit the same to be inspected and copied by him.

Sec. 9. **(R. S., Sec. 2664) Propagation.**—Nothing in this article shall prevent the department from taking or authorizing the taking from any of the waters of this state, at any time and in any manner, any fish or spawn belonging to the state for the purpose of propagation or stocking other waters, or exchanging with the fish commissioner of other states or of the United States, but no such fish or spawn shall be taken or used for propagation in, or stocking of any private lake except on payment therefor to the department, nor shall anything herein prohibit the purchase, sale and use of small fry and sieh eggs for stocking waters in this state, but no small fry or eggs of fish destructive of trout shall be placed in public waters where trout abound, without the consent of the department. The proceeds of all sales of such fish, spawn or eggs shall be paid to the state treasurer.

Sec. 10. **(R. S., Sec. 2665) Arrest of corporation.**—In case of a violation of this article by a corporation, the warrant of arrest may be served on the president, secretary, or manager in this state, or any general or local agent thereof in the county where the action is pending, and, upon the return of such warrant so served, the corporation shall be deemed in court and subject to the jurisdiction thereof, and any fine imposed may be collected by execution against the property of such corporation, but this section shall not be deemed to exempt any agent or employee from prosecution.

Sec. 11. **(R. S., Sec. 2666.) License—revocation.**—If the holder of any license, certificate or permit shall persistently or flagrantly and knowingly violate or countenance the violation of any provisions of this article, such license, certificate or permit of the alleged violation and an opportunity afforded to appear and show cause against the same.

Sec. 12. **(Ch. 54, 2668) Killing, trapping or hunting muskrats, mink or otter on lands of another.**—It shall be unlawful for

any person between the 15th day of February and the 1st day of November next ensuing of each year, to trap, catch, kill or to pursue with such intent, on the premises of another, any fur bearing animal, to wit: Muskrat, mink, raccoon, opossum or otter; and it shall be unlawful for any person, at any time, to enter upon the premises of another, without his consent, with a view to trapping, hunting, killing, or pursuing with intent to kill, any such animal or animals; and it shall furthermore be unlawful for any person to enter upon the premises of another, without his consent, and destroy, tear down, or in any manner, injure the muskrat heaps or houses on such premises; any person offending against any of the provisions of this section shall be fined in any sum not exceeding twenty dollars for each offense: Provided, this section shall not be so construed as to prevent the catching and killing of any animals specified, where there is danger of their doing injury to property, either public or private.

Sec. 13. (2669) **Animals protected.**—Whoever shall at any time of the year, or in any manner, pursue, take, wound or kill any elk, deer, antelope or beaver shall be fined not less than one hundred dollars nor more than three hundred dollars, or be imprisoned in the jail of the county not exceeding ninety days, or both; Provided, in cases where beaver are destroying trees and otherwise damaging property, the person actually owning or controlling the land upon which destruction or damage is being done shall, upon application to the department, be given a permit in writing to destroy or otherwise dispose of such animals. It shall be the duty of the department to issue such permit upon application, but such permit shall at no time authorize the killing, wounding, pursuing, trapping, destroying or taking of beaver upon lands which are not owned or controlled by the person to whom it is issued.

Sec. 14. (2670) **Birds and fish protected.**—Whoever shall at any time of the year, or in any manner, pursue, take, wound or kill any turkey, prairie chicken, sage chicken, grouse, quail, pheasant, partridge, ptarmigan, wild duck, wild goose, brant, swan, crane, wild water-fowl, wild pigeon, dove, snipe, curlew, or any song, insectivorous or other bird, or any trout, white fish, grayling, sunfish, bass, catfish, walleyed pike, pickerel, croppie, or other food fish, or ship or sell, offer or expose for sale or have

the same in his possession, except as permitted by law in this article, shall be fined five dollars for pursuing any of said birds, and five dollars (dollars) for each bird or fish unlawfully killed, taken or wounded, or found in possession, or be imprisoned in the county jail not exceeding sixty days.

Sec. 15. **(2671) Consent of owner of lands.**—Whoever shall shoot on or from a public highway at any song, game, insectivorous or other birds, or fish or hunt game on any land not public land, without the consent of the owner or person in charge of the same, or whoever shall fish or hunt in any private park, lake or preserve without the consent of the proprietor or person in charge of the same, shall be fined fine (\$5.00) dollars for each offense, and no question of ownership, proprietorship or charge shall defeat a prosecution unless it appears that the accused in good faith has theretofore claimed, and, at the time of the commission of the fact complained of claimed to be such owner, proprietor or to have such charge, or to have had the consent of the owner, proprietor or person in charge, and shall establish such a claim.

Sec. 16. **(2672) Explosives prohibited.**—Whoever shall use any dynamite or other explosives, poisonous or stupefying substance, in the taking or killing of any fish, or whoever shall place any dynamite or other explosive, poisonous or stupefying substance in any water containing fish, shall, upon conviction, be fined not less than one hundred (\$100.00) dollars nor more than five hundred (\$500.00) dollars, or be imprisoned in the penitentiary not exceeding one year.

Sec. 17. **(2673) Unlawful to kill squirrels.**—Any person who shall pursue, take, wound, kill or have in his possession, other than by ownership legally acquired, any red fox or gray timber squirrels, except as hereinafter provided for, shall be deemed guilty of a misdemeanor, and upon conviction therefor shall be fined in the sum of five (\$5.00) dollars for each offense: Provided, the months of October and November shall be the open season for squirrels.

Sec. 18. **(2674) Birds and eggs protected—penalty.**—It shall be unlawful for any person in the State of Nebraska to kill, injure or harm any robin, lark, thrush, blue bird, king bird,

wren, jay swallow, oriole, wood pecker, yellow hammer, cuckoo, yellow bird, bobolink, or other bird or birds of like nature that promote agriculture and horticulture by feeding on noxious worms and insects, or that are attractive in appearance or cheerful in song; Provided, hawks, and crows may be killed on one's own premises. It shall also be unlawful for any person to destroy nests and eggs or carry away the eggs or young of any of the birds described in this section: Provided, schools, colleges and universities may, when authorized so to do by the department of agriculture, take or kill for educational or scientific purposes, not to exceed twenty-five in number of any one species or kind of birds protected by this section. Any person violating any of the provisions of this section shall be fined five (\$5.00) dollars for each bird killed, injured, or harmed, and a like sum for each nest taken or destroyed.

Sec. 19. (2675) Unlawful to destroy imported game birds.—Whoever shoots or otherwise destroys any English pheasant, China pheasant, Mongolian pheasant, English partridge, Belgian partridge, English blackcock, or any other variety of imported game birds, within this state, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than twenty-five (\$25.00) dollars nor more than fifty (\$50.00) dollars or be imprisoned in the jail of the county not more than sixty days.

Sec. 20. (Ch. 55, Sec. 24, 1917) When lawful to hunt or fish—penalty.—The open seasons for hunting and fishing shall be as follows:

1. For prairie chicken, sage chicken and grouse, from October 15th to November 15th inclusive;
2. For wild ducks, geese, brants, cranes and game water fowl, from September 16th to December 31st, inclusive;
3. For jack-snipe, Wilson-snipe, killdeer and yellow-legs, from September 16th to December 31st, inclusive;
4. There shall be no open season for doves or plover;
5. For trout not less than eight inches in length, from May 1st to October 1st, inclusive;
6. For bass not less than eight inches in length, from (from) May 1st to November 15th, inclusive;

7. All trout or bass less than eight inches in length must be returned alive to the water from which same were taken with as little injury as possible;

8. For all other fish protected by this article the open season shall begin April 1st and end November 15th next ensuing.

9. Except as otherwise provided in this article the right given by this section to take or kill game and fish is limited to food purposes and to ten wild geese or brant and ten prairie chickens or grouse and twenty-five game birds of any other variety and ten squirrels any twenty-five fish for each person in one calendar day; nor shall any person have in his possession at any one time more than ten wild geese or brants, ten prairie chickens or grouse, or fifty other game birds, or twenty squirrels, not more than fifty fish.

10. No game or fish protected by this article shall be held in possession by any person for more than five days after the close of the season for killing the same, except as in this article provided.

11. No game shall be pursued, taken, wounded, or killed one-half hour after sundown or before daylight; nor with a steel or hard pointed bullet, nor with any other weapon than an ordinary shoulder gun or pistol. Nor shall any fish be taken or killed except in the ordinary manner with a line and rod or as herein otherwise provided, and the hook or hooks baited with natural or artificial bait; and the fishing with lines having more than five hooks thereon shall not be deemed the ordinary manner of fishing; nor shall any person fish within two hundred feet of any fishway; Provided, dogs, blinds and decoys may be used for hunting birds; Provided, further, carp, suckers, gars and buffalo fish may be taken with a spear during the open season hereinbefore provided.

Whoever violates any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay a fine of five (\$5.00) dollars for each bird, animal, or fish unlawfully taken, killed, wounded, or had in its, his or their possession, or be imprisoned in the jail of the proper county for a period not exceeding ten days for each bird, animal or fish unlawfully taken, killed, wounded or had in its, his or their posses-

sion. Provided, that any person convicted of a violation of this section the second time shall be confined in the county jail not to exceed thirty days nor less than ten days.

There shall be no open season on quail, swan, white crane, Chinese pheasants or any other game birds of any variety or species imported into this state for the purpose of propagation.

Sec. 21. (**R. S., 2677**) **Unlawful fishing.**—It is hereby declared unlawful to catch, kill or destroy any fish in any public water in this state other than by the use of hook and line, having not more than five hooks thereon; Provided, buffalo, carp and gar fish may be taken between the hours of sunrise and sunset, with seine or net having a two-inch square mesh, during the months of June, July, August, September and October under the direction of the chief deputy of the department. Every person who owns or uses a seine or net as provided for in this section, shall procure a license from the department, which may issue such licenses. Such person shall be required, upon application for said license to furnish bond in the form of a certified check for the sum of one hundred dollars to guarantee the payment of any and all fines which may be imposed upon the holder of such license for the violation of any of the provisions of this section and such bond or certified check shall be held by the department until such fine or fines have been paid and until the expiration of said license. The department shall cause to be attached to each such seine or net, as provided for in this section, a metal tag having on one side the number of the license and the name of the state. The fee for such license shall be two dollars, payable in advance, and the license shall expire on the thirty-first day of October next ensuing the date of issue, or shall be revoked for the violation of the provisions of this section. To violate any of the provisions of this section or to counterfeit such metal tag herein provided for in (is) hereby declared a misdemeanor, and is punishable by a fine not exceeding one hundred dollars or by imprisonment in the county jail for a term not exceeding sixty days or both. Public waters within the meaning of this section shall embrace all lakes, ponds, rivers, creeks, bayous and streams except artificial pond or ponds subject to the exclusive dominion of single ownership. Every seine, net or unlawful device used in violation of the provisions of this

article by any person or persons, or found in any water in this state or in the possession of any person or persons intending to use the same, shall be declared a public nuisance and may be seized by any officer with or without a warrant and be destroyed; and it shall be the duty of every officer authorized to enforce the provisions of this section to seize and summarily destroy the same and no prosecution or suit shall be maintained for such destruction. In all cases under this section the constables and justices' fees shall be the same as in other cases of misdemeanor. All constables, sheriffs, and county attorneys of this state are hereby empowered to and shall prosecute all offenders against this section. Provided, however, no hunting or fishing license shall be issued to any person not a citizen of the United States.

Sec. 22. (2678) When lawful to use nets or seines.—In waters where White Buffalo, Suckers, Catfish, Garfish, Carp or Squaw Fish abound, the department may remove or cause to be removed said coarse fish excepting Catfish, if said coarse fish are a detriment or menace to the propagation and increase of game fish in said waters, and may sell such coarse fish for the purpose of defraying the expense of netting or seining. If there be any residue over the cost of netting or seining the same shall be paid into the game and fish commission cash fund for the purpose of restocking with game fish, the waters seined. In case any fish of any of the varieties protected by law be taken in any seine or net as provided above, they shall be immediately returned alive by the person using the seine or net, to the water from which they were taken. No person shall, without first procuring from the department a license, annually so to do, take any fish from the Missouri River with nets or seines. Before any such license shall be issued to a non-resident of the state of Nebraska, the applicant shall execute and deliver to the department a bond to the state of Nebraska in the penal sum of \$200.00 with two sureties who shall each justify in the sum of \$200.00 in property in this state over and above all debts and liabilities. In lieu of such bond such licensee may make a deposit of \$200.00 or provide a bond executed by any surety company authorized to do business in this state. The fees charged for such license shall be as follows: For each 500 lineal feet of seine, or fraction thereof, ten (\$10.00) dollars; for each pound net having more than

100 feet lead on each side, four (\$4.00) dollars; for each pound net having less than 100 feet lead on each side, one (\$1.00) dollar; for each bait net, dip net, hoop net, and fyke net, fifty (50) cents; for each three hundred (300) lineal feet or trammel net used for floating fishing, five (\$5.00) dollars. All such licenses or permits shall expire on the first day of January following their issuance.

Sec. 23. **(R. S. 2679) Possession of game—penalty.**—Any corporation, company, association, person or persons, or its, his or their officers, agents, servants, or employees, who shall have in its, his or their possession or control any grouse, pheasant, prairie chicken, quail, wild turkey, wild goose, brant, or any wild duck or any of the birds, animals or fish protected by this article except during such open season as may be provided by law, and the period of five days next succeeding the close of such season, or any corporation, company, association, person or persons, or its, his or their officers, agents, servants or employees who shall at any time or season of the year, sell, barter, or offer or expose for sale or barter, any wild elk, deer, or antelope, grouse, prairie chicken, quail, wild turkey, wild goose, brant, or any wild duck, or any of the birds, animals or fish except of the following varieties, sturgeon, buffalo, carp, suckers, cat fish, and gar fish, protected by this article, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined five dollars for each and every bird or fish unlawfully had in its, his or their possession or control, or sold, bartered or exposed or offered for sale or barter and not less than twenty-five dollars nor more than one hundred dollars for each and every animal so unlawfully sold, bartered or exposed or offered for sale or barter contrary to the provisions of the law.

Sec. 24. **(R. S., Sec. 2680) Non-resident license—penalty for violation.**—It is unlawful for any person holding a non-resident license as herein provided, to take out of the state more than fifty birds or twenty-five fish protected by the laws of this state, in any one year: Provided, this section shall be construed to mean that when fifty birds and twenty-five fish of any one kind or variety have been taken from the state by the holder of a non-resident license, further right to take any kind of birds or fish by the holder of said license shall cease. No transporta-

tion company or common carrier shall receive for transportation or shipment out of the state, any birds, fowls or animals protected by the laws of the state, except when the same shall be in the personal possession of, or carried as baggage or express by the owners thereof, and such owner shall have in his possession at the time of such taking out of the state a non-resident license duly issued to him under the provisions of law, and the number and kind of birds and fish so carried out of the state should be endorsed on the license of person entitled to take them out, and said persons shall accompany the said birds, fowls or animals on the same train or other conveyances of the common carrier beyond the borders of the state. Any person who shall violate any of the provisions of this section shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail not more than sixty days.

Sec. 25. **(R. S. 2681) Game protected—not found out of state—penalty.**—It is unlawful for any person, a resident of this state, to ship or take within or without this state any birds, fowls, or animals protected by the laws of this state, except when accompanied by the same and in his possession on the same train, as provided for in this article. Any person who shall violate any of the provisions of this section shall be punishable by a fine of five dollars for each bird so shipped or taken, or by imprisonment in the county jail not more than ninety days.

Sec. 26. **(R. S. 2682) Transportation—labels.**—It is hereby required that any and all packages containing fish or game shall be labeled in plain letters on the address side of the package, so as to disclose the fact that said package contains fish or game, and the amount of said fish or game so contained in said package. Any person who shall deliver to a common carrier for transportation any package or parcel containing fish or game which said package or parcel shall not be so labeled as herein required, or who shall place upon said package or parcel a false statement as to the contents thereof, shall be punished by fine of not less than twenty-five dollars (dollars) nor more than one hundred dollars, or by imprisonment in the county jail not more than thirty days.

Sec. 27. (**R. S. 2683**) **Same—name—address—description.**
—Every person delivering to a common carrier a package or parcel containing fish or game, shall place upon said package the name and address of the owner or consignor of said package or parcel, and also place upon such package a description of the contents thereof, containing the number of birds or animals of each kind and the number of fish of each variety. Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than fifty dollars.

Sec. 28. (**R. S. 2684**) **Same—common carriers—duties.**—It shall be unlawful and is hereby prohibited for any common carrier or agent, servant or employee of a common carrier, to receive for transportation or to transport any package or parcel containing fish or game unless the same shall be labeled as provided in the two preceding sections. Any person, firm or corporation violating the provisions of this section shall forfeit to the State of Nebraska a sum not less than twenty-five dollars nor more than one hundred dollars.

Sec. 29. (**R. S. 2685**) **Importing game.**—It shall be unlawful for any person, firm or corporation acting as common carrier to bring into this state any fish or game from any state during the time that such other state prohibits the transportation of such fish or game from such state to a point without the same. Any person, firm or corporation violating the provisions of this section shall forfeit to the state the sum of not less than twenty-five dollars nor more than one hundred dollars.

Sec. 30. (**R. S. 2686**) **Same.**—It shall be unlawful for any person, firm or corporation or common carrier to ship into or through this state from any other state any fish or game prohibited by the laws of said state to be shipped or transported and it shall be the duty of the secretary to seize, hold and dispose of, according to the laws of this state, any fish or game brought into or shipped into this state, or carried through, or attempted to be carried through this state, prohibited to be so shipped or transported by the laws of any other state, and further to dispose of the same according to the laws of this state. Any person, firm or corporation violating the provisions of this

section shall upon conviction thereof be fined in any sum not less than twenty-five dollars nor more than one hundred dollars.

Sec. 31. (**R. S. 2687**) **Transportation of game during closed season.**—Any person, company or corporation, or any agent or servant of the same who shall, for compensation or otherwise, transport or offer to receive for shipment or transportation any animal, fish, fowls or birds for which a closed season is provided for by law, during such closed season, or who shall transport or offer to receive for shipment or transportation to any place beyond this state any animals, fish, fowls or birds for which an open season is provided by law, during such open season, except as provided in section twenty-five of this article shall forfeit not less than twenty-five dollars nor more than one hundred dollars for each such violation to be recovered in a civil action brought in the name of the department of agriculture. The possession of any such animals, fowls or birds during the closed season therefor, for a shipment or in transmit, shall be *prima facie* evidence of the violation of this section; Provided, however, game and fish lawfully killed or taken during the open season may be lawfully carried out of the state any time during the five days next following the end of such open season, under the provisions and restrictions hereinbefore provided. It shall be the duty of every person, whenever any animal, fish or game of any of the kinds, the taking, catching or killing of which is prohibited by law at any or all times (except during the periods in which the same may be lawfully taken, caught or killed), is offered to him for transportation out of the state, to at once notify and give full particulars concerning such offer and by whom made, to the department of agriculture. All sections of this article relating to the having in possession or under control, or the sale, shipment or transportation of any animal, fish, water-fowl or bird, shall be construed to include any and all parts of the flesh meat thereof.

Sec. 32. (**R. S. 2688**) **Storage.**—It shall be unlawful to store or to receive for storage any game or fish within this state except as follows, to-wit:

First: During the open season for such game or fish or for five days thereafter, when the same is stored for the person lawfully in possession thereof.

Second: At any time of the year when the same has been lawfully imported into this state. Whoever violates any of the provisions of this section shall upon conviction thereof be fined in any sum not less than fifty dollars nor more than one hundred dollars, or be imprisoned in the jail of the proper county not exceeding ninety days.

Sec. 33. (**R. S. 2689**) **When game or fish named on menu—penalty.**—No game or fish shall be held in possession of or placed upon the table of any hotel, restaurant, cafe, or boarding house, or named on its menu or bill of fare as food for its patrons, either under the name used in this article or under any other name or guise whatever except during the open season therefor and for the period of five days thereafter;

Provided, game and fish confiscated under the provisions of this chapter shall be delivered to one or more of the public institutions for the care of the unfortunate, or other charitable institutions. Whoever violates any of the provisions of this section shall upon conviction thereof, be fined in any sum not exceeding one hundred dollars or be imprisoned in the jail of the proper county not exceeding thirty days.

Sec. 34. (**R. S. 2690**) **Same—evidence.**—The naming of game or fish upon any such menu as food for patrons shall be prima facie evidence of the possession of the same by the proprietor of such hotel, restaurant, cafe or boarding house. Nothing in this chapter shall be construed to prohibit the storage, transportation or use of any fish lawfully imported into this state.

Sec. 35. (**R. S. 2691**) **Confiscation of nets.**—Every net, seine, trap, explosive, poisonous or stupefying substance or device used or intended for use in taking or killing game or fish in violation of this article, is hereby declared to be a public nuisance and may be abated and summarily destroyed by any person, and it shall be the duty of every such officer authorized to enforce this article to seize and summarily destroy the same, and no prosecution or suit shall be maintained for such destruction; Provided, nothing in this article shall be construed as affecting the right of the department to use such means as may be proper for the promotion of game and fish propagation and culture, nor as authorizing the seizure or destruction of firearms

except as hereinafter provided; and, provided further, it shall be lawful to take minnows of any variety not protected by law for bait in the shallow waters of this state with nets or seines not exceeding twenty feet in length and three feet in depth, and nets and seines of such description are excepted from the operation of this section.

Sec. 36. **(R. S. 2692) Disturbing hatching pond, etc.**—It shall be unlawful for any person or persons to injure, disturb, or destroy any hatching box, hatching house, or pond used for hatching or propagating fish, or to injure or destroy or disturb any spawn or fry, or fish in any hatching box, hatching house or pond, or stream; Provided, the department may take or cause to be taken any of the fish named in this section for the purpose of propagation, or stocking the waters of this state. Every person violating any provisions of this section shall be guilty of a misdemeanor, and punished by a fine of not more than ten dollars for each fish taken or held in possession, or other offense under this section, or by imprisonment in the county jail not more than ten days.

Sec. 37. **(R. S. 2693) Material used in hunting or fishing unlawfully—forfeited.**—All guns, ammunition, dogs, blinds, and decoys and any and all fishing tackle, in actual use by any person or persons while hunting or fishing in this state without license or permit, when such license or permit is required by law, is hereby declared to be a public nuisance and shall be forfeited to the state in a proper civil action and sold in the manner provided for the sale of property on execution and the proceeds thereof paid to the county treasurer; and it is made the duty of the department and every officer charged with the enforcement of this article to enforce this section by seizure of the same and by commencing the proper action.

Sec. 38. **(R. S. 2694) Private fish ponds protected.**—It shall be unlawful for any person to catch, interfere with, injure or in any manner destroy, or maliciously disturb to the damage of the private property, of another, the fish in or work connected with, any private fish pond not exceeding ten acres in this state. Any person or persons violating the provisions of this section shall be fined in any sum not less than ten dollars nor more than

one hundred dollars; and it shall be unlawful for any person to take up, remove or clear away any fish net, fish lines, or fish pond placed or put in the waters of any lake, pond, or reservoir contrary to the provisions of this article.

Sec. 39. **(R. S. 2695) Non-resident license—how issued.**—The department of agriculture shall, upon application and the payment to the state treasurer of the fee required, issue to any non-resident of this state, a license authorizing such licensee in person within this state to hunt for and kill game and to fish for and take fish, during the open season for such game and fish, and to have in his possession and dispose of the same subject to all of the restrictions imposed by this article; Provided, the department may deliver to the county clerks of the several counties blank licenses bearing his signature or a facsimile thereof, and the same may in such case be issued by such clerks in the name of the department upon the terms and conditions above prescribed. All blank licenses delivered to the several county clerks shall be numbered by the department and when such license shall have been issued by the county clerk of any county as herein provided, he shall immediately notify the state treasurer by mail stating the number of such license, the name and residence of the licensee and the date when issued and shall remit the license fee to said state treasurer, who shall keep a record of all licenses issued under this article which shall be open for inspection as in case of other public records of the state.

Sec. 40. **(R. S. 2696) Non-residents hunt or fish without license—penalty.**—It shall be unlawful for any person not a bona fide resident of this state to pursue, hunt, kill or wound within this state any of the animals, birds or fish, or to fish for, or take out of this state any of the birds or fish protected herein, except in accordance with the provisions thereof and without first having procured a license therefor as in this article provided. Whoever violates the provisions of this section shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the jail of the proper county not exceeding sixty days for each of such offenses. And for the purpose of this section every such unlawful shipment, or offer for shipment and such unlawful hunting and fishing in each calendar day, shall be deemed a separate offense.

Sec. 41. (R. S. 2697) Residents must have license—penalty.

—Except as otherwise provided in this article, it shall be unlawful for any resident of this state without having first procured a license therefor, to hunt or fish or to pursue any of the birds or animals protected by this article within this state; Provided, the license shall authorize such person to fish and hunt within any county of the state; and provided further, any person may, during the open season as herein defined, hunt and fish upon lands or upon or within waters which such person actually owns or upon lands on which such person actually resides, without being required to procure such license and also that all honorably discharged soldiers and sailors of the Civil War, all female persons, and all boys under the age of 18 years, be permitted to fish and that all boys under the age of 18 years, if accompanied by parents or guardians, be permitted to hunt without being required to procure a license. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding fifty dollars, or be imprisoned in the jail of the proper county for a term not exceeding thirty days.

Sec. 42. (R. S. 2698) When license issued.—The license required by the last preceding section shall upon the payment of the fee hereinafter named therefore, be issued to any resident of this state in like manner, by the same officer and subject to like conditions as in case of licenses to non-residents of this state.

Sec. 43. (R. S. 2699) Transportation—fine.—The holder of any license authorizing him to ship or transport game or fish to any point outside of this state shall, upon offering any such game or fish for shipment to any common carrier present to the agent, servant or representative of such carrier a true invoice of such shipment showing the number and kind of birds and the number and variety of fish, thereof and shall at the same time deliver to such agent, servant or representative his license issued pursuant to law and such agent, servant or representative shall at the time of receiving such consignment of game or fish, endorse upon the license with ink, the date of the receipt of such consignment with the number and varieties of such game or fish so shipped or offered for shipment, together with the name of

the consignee and the point to which consigned. Every person shipping or offering for shipment or receiving as consignee or as agent, servant or representative of any common carrier any game or fish in violation of this article shall, upon conviction thereof be fined in any sum, not exceeding one hundred dollars or be imprisoned in the jail of the proper county not exceeding sixty days. And every common carrier receiving for shipment or transportation any game or fish in violation of this section shall pay to the State of Nebraska not less than fifty dollars nor more than one hundred dollars.

Sec. 44. **(R. S. 2700) Same**—The corporate authorities of any county, city or village, within whose territorial jurisdiction such fine was recovered when such fines are collected, shall pay to the complaining witness in such prosecution, out of the general fund of such county receiving such fine, an amount equal to one-half of the fine actually collected, upon the proper application of the party entitled to the same, in the manner usual for the presentation of claims against counties.

Sec. 46. **(R. S. 2701) License fees**.—The state treasurers shall charge for and collect in advance for services required by this article which shall be disposed of as hereinafter provided, viz: For license to hunt and fish in this state issued to a non-resident of Nebraska, ten dollars; for each license issued to a resident of this state, one dollar; Provided, where a non-resident of this state desires to fish only in this state, then the said treasurer shall charge but two dollars therefor.

Sec. 46. **(R. S. 2702) Same—disposition**.—All moneys derived from licenses and permits issued pursuant to this article shall by the state treasurer be paid over for the use of the school fund of the state.

Sec. 47. **(R. S. 2703) Same—expiration**.—All licenses issued pursuant to the provisions of this article shall expire on the 31st day of December next succeeding the date of their issuance.

Sec. 48. **(R. S. 2704) Prosecutions**.—It is hereby made the duty of all county attorneys of this state to see that the provisions of this article are enforced in their respective counties, and they shall prosecute all offenders on receiving information

of the violation of any of the provisions herein; and it is made the duty of all sheriffs, deputy sheriffs, constables, and police officers to inform against and prosecute every party or parties, person or persons, whom there is reasonable or probable cause to believe are guilty of violating any of the provisions of this article. Any county attorney, sheriff, deputy sheriff, constable or police officer who shall fail, neglect, or refuse to discharge the said duties hereby imposed on such officer, respectively, shall be deemed guilty of a misdemeanor, and on conviction, be fined not less than twenty-five dollars nor more than one hundred dollars for each offense.

Sec. 49. (R. S. 2707) **Fish in irrigating waters—protection.**—For the purpose of protecting the game fish in the streams or rivers, and reservoirs of this state whose waters are used for purposes of irrigation, it is hereby made the duty of the department to cause to be placed and maintained, at the mouth of every irrigation ditch, designated by him, and which opens into any such stream or river or reservoir containing trout, bass, croppie and pickerel, in this state, a woven wire fish screen having a mesh no larger than one inch.

Sec. 50. (2708 and 9) **Screen—notice—construction—violation.**—The department upon ascertaining what ditch or ditches are necessary to be screened at their mouth, shall give immediate notice in writing to the person, firm or corporation, owning, operating or controlling any such ditch or ditches, such notice shall set forth the size of the woven wire screen necessary to be set in place at the mouth of the ditch or ditches, and the mesh of such screen shall be no larger than one inch and shall be so placed and maintained at the mouth of each irrigation ditch designated by the department, the proper woven wire screen. For each day's failure to keep such screens in repair, and for each day's neglect, after the twentieth day, to comply with the said written notice, there shall be a fine of one dollar for each such day, such fine and costs to be collected in any court of competent jurisdiction and the amount of such fine shall be paid over to the county treasurer for the use of the school fund.

Sec. 51. **Game and bird reserves—regulation.**—Every school section and other tract of educational land, within the state, whose title is vested in the State of Nebraska, is hereby declared

to be a game reserve and bird refuge. Other game reserves and bird refuges or reservations may be established by the department of agriculture in any county where they shall be deemed necessary for the protection and propagation of game, or as a refuge or sanctuary for song and insectivorous birds. The land for such reserve or reservation established by the department of agriculture, shall be leased at a nominal rental of one dollar per year for each parcel. On every reserve or bird refuge the department may have planted suitable grain or other food for birds and game, not to exceed five acres for each 640 acre reservation, and for each such parcel so planted the department may, if required so to do, pay a rental not to exceed the usual rent of similar land in the vicinity or locality.

Sec. 52. Notice required to be posted on game and bird reserves—form.—At each section corner and in full sight of the traveled highway at each game reserve or bird refuge shall be placed, by the department of agriculture, a conspicuous, permanent sign as follows:

STATE OF NEBRASKA
GAME AND BIRD RESERVATION.
HUNTING OR DESTROYING GAME AND BIRD LIFE
PROHIBITED AND PUNISHED.
NEBRASKA DEPARTMENT OF AGRICULTURE.

with such other notice as the department of agriculture shall deem advisable. Anyone defacing or removing such signs shall be fined not less than ten dollars nor more than fifty dollars for each offense.

Sec. 53. Unlawful hunting of birds—violation—penalty.—It shall be unlawful to hunt, trap or ensnare in any way any game or birds within such reservation or to take or destroy the nests or eggs of any wild birds or game in such refuge or reservation; and any person guilty of violation shall be subject for each offense to a fine of not less than fifty dollars nor more than one hundred dollars and the costs of prosecution, and shall stand committed to the county jail until such fine and costs are paid: Provided that such imprisonment shall not exceed ten days.

ARTICLE V.

PURE FOOD

Section 1. **Department of Agriculture to enforce.**—The department of Agriculture shall enforce the pure food laws.

Sec. 2. **Governor employ assistants.**—For the purpose of enforcing regulation and inspection the governor is authorized to appoint such inspectors and assistants as are necessary therefor.

Sec. 3. **(2536) Adulterations.**—An article shall be deemed to be adulterated:

A. In case of drugs:

1. If when a drug is sold under or by the name recognized in the United States Pharmacopoeia or National Formulary, it differs from the standard of strength, quality or purity as determined by the test laid down in the United States Pharmacopoeia or National Formulary official at the time of investigation: Provided, no drug defined in the United States Pharmacopoeia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength or purity be plainly stated upon the bottle, box or other container thereof although the standard may differ from that determined by the test laid down in the United States Pharmacopoeia or National Formulary;

2. If its strength or purity fall below the professed standard or quality under which it is sold.

B. In the case of confectionery: If it contain terra alba, barytes, talc, chrome yellow, paraffin or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spiritous liquor or compound or narcotic drug.

C. In the case of ice cream: If it does not contain at least fourteen per cent butter fat, finish, and of fruit cream twelve per cent butter fat, finish, and if it contains any ingredient deleterious or detrimental to health.

D. In case of food:

I. If any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality or strength:

2. If any substance has been substituted wholly or in part for the article;

3. If any valuable constituent of the article has been wholly or in part abstracted;

4. If it be mixed, colored, powdered, coated or stained in any manner whereby damage or inferiority is concealed;

5. If it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health: Provided, when in the preparation of food products for shipment they are preserved by an external application applied in such manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of such preservative shall be printed on the covering of the package, the provisions of this article shall be construed as applying only when said products are ready for consumption;

6. If it consist in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

Sec. 4. **Articles misbranded.**—The term “misbranded” as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product, which is falsely branded as to the state, territory, place or country in which it is manufactured or produced.

An article shall also be deemed to be misbranded:

A. In the case of drugs:

1. If it be an imitation of or offered for sale under the name of another article;

2. (Ch. 51, R. S. 1917) If it shall be labelled or branded so as to deceive or mislead the purchaser or purport to be a foreign produce when not so, or if the contents of the package as originally put up shall have been removed, in whole or in

part, and other contents shall have been placed in such package, or if the package fail to bear a statement, on the label, of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta, encaine, chloroform, cannadis indica, chloral-hydrate or acetanelide, phenacetine (acetphenetidine), antipyrine, or any other of the coal tar preparations, belladonne, or any derivative or preparation of any such substance contained therein;

3. If its package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which is false or fraudulent.

B. In the case of food:

1. If it be an imitation of or offered for sale under the distinctive name of another article;

2. If it be labeled or branded so as to deceive or mislead the purchaser or purport to be a foreign produce when not so, or if the contents of the package as originally put up shall have been removed in whole or in part and the other contents shall have been placed in such package, or if it fails to bear a statement, on the label, of the quantity or proportion of any alcohol in excess of one-half of one per cent;

3. If in package form, if each package, except canned corn, does not have a correct statement, clearly printed on the outside of the package, of the contents and the quantity of the contents in terms of weight, measure, or numerical count; and in case of wheat flour the name of the manufacturer and the place where manufactured, provided however, that the provisions of this paragraph shall not apply to packages put up by the retailer at the time of sale.

4. If the true quantity in container (in case of liquids other than medicines) is not correctly stated thereon.

5. If the package containing it or the label thereon shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular;

6. If, in case of food products, there be contained in the package any gifts, premiums or prizes;

An article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

1. In case of compounds, imitations and blends which may be now or from time to time hereafter, known as articles of food, under their own distinctive names, and not an imitation of, or offered for sale, under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced, the net weight or measure of contents:

2. In case of articles labeled, branded or tagged so as to plainly indicate that they are compounds, imitations or blends, and the word "compound," "imitation," or "blend," as the case may be, and the ingredients composing said article are plainly stated in the package in which it is offered for sale. The term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only.

3. In case of wheat flour made from a mixture of different kinds of wheat, if branded "Blended" and if the different kinds of wheat used in its manufacture are plainly stated on the package by classes.

For the purpose of this article all kinds of wheat are divided into five classes, as follows: Hard spring, hard winter, soft spring, soft winter and durum. Nothing herein shall be construed to prevent the manufacture and sale by the manufacturer within this state of any kind of flour which is shipped outside of the state, nor to apply to the compounding of family or domestic receipts, the dispensing of prescriptions, written by regular licensed physicians, veterinary surgeons or dentists and kept on file with the dispensing pharmacist, nor to such drugs as are recognized in the United States Pharmacopoeia, the American Homeopathic Pharmacopoeia and the National Formulary, and which are sold under the name by which they are recognized, nor as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome, added or deleterious ingredient to disclose their trade formulas, except insofar as the provisions of this article may require to secure freedom

from adulteration or misbranding, nor to prevent the manufacture and sale, within this state, of flour bleached with nitrogen peroxide.

Sec. 5. (2535) **“Drug”—“Food” defined.**—The term “Drug” as used in this article shall include all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either man or animals. The term “food,” as used herein shall include all articles used for food, drink, confectionery or condiment by man or animals, whether simple, mixed or compound.

Sec. 6. (Ch. 51 Laws 1917). **Inspection of foods.**—Whenever the department of agriculture or any officer, employee, inspector or assistant of the department shall be of the opinion that any liquors, beverages, medicines, remedies, foods, drugs, or substitutes therefor or imitations thereof are kept or exposed for sale or held in the possession or under the control of any person in violation of the provisions of this Article the department or such officer, employee, inspector or assistant of the department is authorized upon paying or offering to pay to the person entitled thereto the full value thereof, to seize and take possession of one or more samples of such articles, such sample or samples shall be sealed by the inspector and analysis shall thereupon be made by the department. If on inspection or analysis such sample or samples are found to be adulterated or misbranded within the meaning of this Article the remainder of such articles may be seized by the department. One sample shall be preserved in the laboratory of the department and shall be delivered to the person from whom it is taken or to his agent or attorney upon application. Any person who shall obstruct the department or any officer, employee, inspector or assistant thereof by refusing to allow entrance into any place for the purpose of carrying out the provisions of this section or by refusing to deliver samples as herein required, when the same are requested and the value tendered, shall be subject to the penalties hereinafter provided.

Sec. 7. (2534) **Violation—Prosecution.**—If it shall appear from a chemical analysis that any of the provisions of this article

have been violated the department of agriculture shall certify the facts to the proper county attorney with a copy of the results of the analysis.

Sec. 8. **(R. S. 2538) Guarantee.**—No dealer shall be prosecuted under the provisions of this article when he can establish a bona fide guarantee signed by the wholesaler, jobber or manufacturer in this state, from whom he purchased such articles, that they are not adulterated or misbranded within the meaning of this article, designating it, and that he has no knowledge of such adulteration or misbranding at the time they were purchased. Such guaranty shall contain the name and address of the vender who shall be amenable to the prosecutions, fines, and other penalties to which the purchaser would otherwise be amenable.

Sec. 9. **(2539) Articles condemned—disposition.**—Any article of food or drug, as defined in this article, which is condemned as being adulterated or misbranded, unclean, unwholesome or of poisonous or deleterious character, within the meaning of this article, shall be disposed of by destruction or sale, as the court before whom the person or persons, was or were convicted, may direct, and proceeds of such condemned article, if sold, less the legal costs and charges, shall be paid into the treasury of the state, but such article shall not be sold to be used contrary to any laws of this state.

Sec. 10. **Unlawful acts.**—No person shall, within this state, manufacture for sale therein or have in his possession with intent to sell, offer or expose for sale, or sell any liquors, beverages, remedies, medicines, or articles of food or drug which are adulterated or misbranded within the meaning of this title.

Sec. 11. **(2552) Violation—penalty.**—Any person, firm or corporation, violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, or imprisoned in the county jail not exceeding three months.

ARTICLE VI.

DAIRY INDUSTRY

Section 1. **Department of Agriculture to enforce.**—The Department of Agriculture shall enforce the provisions of this Article. It shall make or cause to be made all necessary examinations and shall have authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of this Article.

Sec. 2. **Definition of terms.**—For the purpose and within the meaning of this Article milk is the lacteal secretion obtained from the complete milking of cows. Skimmed milk is milk from which substantially all of the milk fat has been removed. Cream is that portion of the milk rich in milk fat which rises to the surface of the milk on standing, or is separated from the milk by centrifugal force. When construing and enforcing the provisions of this Article, the act, omission, or failure of any officer, agent, or other person acting for or employed by any individual or by any corporation, partnership, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such individual, corporation, partnership, society, or association, as well as that of such officer, agent or other person.

Sec. 3. **Unlawful acts.**—No person shall sell or deliver for consumption as milk or cream, or have in his possession with intent to sell or deliver for consumption as milk or cream: (A) Milk to which water or other foreign substance has been added; (B) Milk containing less than three per cent of milk fat as determined by the Babcock Test for butter fat; (C) Skimmed milk which has not been pasteurized or made from pasteurized milk, or which is not labelled "Skimmed Milk"; (D) Skimmed milk to which water or any foreign substance has been added, or which does not contain at least 9.25% of milk solids as determined by drying to constant weight at the temperature of boiling water; (E) Milk or cream containing, or which has been exposed to, any disease producing bacteria; (F) Milk or cream which has been produced, stored, handled, or transported in any unclean or insanitary manner; (G) Milk or cream, the container

of which is labeled or branded so as to deceive or mislead the purchaser; (N) Milk or cream which has been homogenized or emulsified, unless it is plainly and conspicuously labeled: "Homogenized" or "Emulsified" as the case may be; (J) Cream which contains less than 18% of butter fat. Provided nothing in this Article shall be construed to prohibit the sale, when labeled so as to show its true character, of either (1) sour milk or sour cream; or (2) buttermilk.

Sec. 4. **Same—unlawful acts continued.**—No person shall sell, offer or expose for sale, exchange, or deliver any milk or cream which has been taken from any animal having any disease or sickness or from any animal, during the period of fifteen days preceding parturition, or within such time thereafter as the milk is abnormal; or from any animal which has been fed unwholesome food, or has had access to contaminated water; or from any animal kept in a crowded or unhealthful condition, milk from any animal which has not been examined within not to exceed one year previously, by a duly licensed veterinarian and certified by him to be free from disease, shall be pasteurized before being offered for sale.

Sec. 5. **Sale of milk or cream—license required.**—No person shall sell, or deliver, or have in his possession, with intent to sell or deliver, milk or cream without first obtaining a license from the Department of Agriculture or its Secretary. The fee for such license shall be one dollar for each place from which sale or delivery is made, and each license shall expire July 1st, next after its issue and shall not be transferable. No license shall be issued for less than one dollar. Each license shall be numbered and shall contain the name and place of business of the licensee and the number of vehicles and places to be used. The name of the dairy, or the name of the person, firm, or corporation to whom the license is issued, shall appear on both sides of each vehicle in letters not less than two inches in height and plainly eligible. Any sale from a vehicle not so inscribed shall be deemed a violation of this Article. The foregoing provisions of this section shall not apply to the sale of milk or cream when said milk or cream is sold only to a manufacturing establishment to be converted into food products other than milk or cream, nor to the

sale of any milk or cream which is entirely the product of a herd of five cows or less.

Sec. 6. Refusal and revocation of licenses.—The Department of Agriculture may withhold a license from any applicant therefor whom it may deem unworthy and may revoke any license issued to an owner who has violated the terms thereof, or who has failed to comply with any requirement of this Article, or refuse or fail to obey its lawful request or direction, and every conviction of the licensee for an offense punishable under this Article shall be sufficient grounds for such revocation.

Sec. 7. Containers required.—No person shall sell or deliver, or have in his possession with intent to sell or deliver, to the consumer, any milk or cream not in bottles or other suitable container effectively sealed to exclude dust and other contamination.

Sec. 8. Operation of creameries and cheese factories—license required.—For the purpose and within the meaning of this Article the word creamery is defined as a factory where cream, with or without the addition of salt and coloring matter, is churned into butter. The term cheese factory is defined as a factory where milk, skimmed milk, or cream, with or without the addition of salt or coloring matter, is manufactured into cheese. No person shall operate a creamery, cheese factory, or milk condensing plant; or manufacture ice cream for sale, except churches or benevolent organizations in society or special benefit entertainments, without first procuring a license from the Department of Agriculture or its Secretary. The fees charged for licenses shall be as follows: For each creamery or cheese factory which produces 100,000 pounds or less, per annum, of butter or cheese, \$10.00, and an additional tax of \$2.00 on each additional 100,000 pounds or fraction thereof, per annum; for each milk condensing plant \$10.00; for each wholesale manufacturer of ice cream \$5.00; and for each retail manufacturer of ice cream, \$1.00, each license shall expire July first next after it is issued and shall not be transferable. No license shall be issued for a less amount than the fee stated in this section.

Sec. 9. Receptacles must be sanitary.—It is hereby declared a violation of this Act for any person having in possession bottles,

cans, or other receptacles containing milk or cream of any dairy product including ice cream, not to clean or cause to be cleaned such receptacles immediately upon emptying. No person shall have in possession, or consign for transportation, any receptacle which is used for the transportation or handling of cream or milk or any dairy product, including ice cream, unless said receptacle is thoroughly clean and in a sanitary condition. No person shall use, cause or allow to be used, any receptacle which is used in the transportation or handling of milk or cream or any other dairy product, including ice cream, for any other purpose whatsoever.

Sec. 10. **Sampling by inspectors.**—The Department of Agriculture, or its authorized agent, shall have access, at all reasonable times, to all dairies, places of business, factories, buildings, warehouses, and cars used in the production, manufacture, sale or transportation of dairy products and such authorized agent upon showing his authority, and upon paying or offering to pay the full value thereof, may take from any producer, handler, or seller, of milk or cream or any other dairy product, whether principal, agent or employee, one or more samples for the purpose of inspection and chemical analysis. Any person who hinders or prevents such access or who refuses to sell or deliver to such authorized agent shall be deemed guilty of a violation of this Article.

Sec. 11. **Licensed testers required.**—Every creamery, shipping station, or other factory or person receiving, buying and paying for milk or cream on the basis of the amount of butter fat contained therein shall have in its employ a licensed tester, who shall supervise and be responsible for the operation of the Babcock Test of milk and cream. The license shall be issued to such person by the Department of Agriculture or its Secretary when the applicant has passed a satisfactory examination in person and proved by actual demonstration before an inspector or authorized agent of the Department of Agriculture that he is competent and qualified to conduct the Babcock Test for butter fat. Each license shall be valid for one year after its issue and shall not be transferable. The fee for such license shall be \$2.00 and shall be paid to the Department of Agriculture or its authorized agent before such license shall be issued. The Department

of Agriculture shall have authority to revoke any license issued under this Article. The testing of each lot of milk or cream by any such unlicensed person shall constitute a separate offense, provided that any licensed person, may for valid reasons, appoint a substitute for a period not to exceed fourteen days, subject to the approval of the Department of Agriculture.

Sec. 12. **Fraud in testing milk or cream.**—No person receiving milk or cream by weight or test or by weight and test, shall fraudulently manipulate the weights of milk or cream or take unfair samples thereof, or fraudulently manipulate such samples in any way. No person buying and paying for milk or cream on the basis of the amount of fat contained therein shall under-read, over-read or otherwise fraudulently manipulate the Babcock Test used for determining the percentage of fat in milk or cream or to falsify the record thereof or to read the test at any temperature except between 135 degrees and 140 degrees Fahrenheit, or to pay on the basis of any measurement or weight except the true measurement or weight, which is seventeen and six tenths (17.6) cubic centimeters for milk and nine (9) grams for cream. In all tests made under the provisions of this Section the cream shall be weighed into the test bottle.

Sec. 13. **Standard glassware for testing.**—Every person buying or paying for milk or cream on a basis of the amount of butter fat contained therein as determined by the Babcock Test, shall use standard Babcock Test bottles, pipettes and weights, and accurate scales. All test bottles, pipettes and weights must be purchased from the Department of Agriculture and before being issued by said Department shall be inspected by the Department of Dairy Husbandry of the University of Nebraska, and if found accurate shall be legibly marked by said Department with the letters "S G N" (Standard Glassware Nebraska). The fee for such standardization shall be three cents (3c) for each piece of glassware and each weight so tested and marked, and said fee shall be paid to the Department of Dairy Husbandry by the Department of Agriculture. No bottle, pipette, or weight shall be used for such test unless so examined and marked by said Department of Dairy Husbandry of the State University. It shall be unlawful for any person to use or have in their place of business any other than standard test bottles, pipettes, and weights

which have been examined and marked as provided in this Section. Provided the foregoing provisions as to marking of glassware and weights shall not be in force and effect until January first, nineteen twenty (1920).

Sec. 15. **Standards for scales and test bottles.**—For the purpose of this Article the scales used in the performance of the Babcock Test for the purchase of milk or cream on a butter fat basis shall be of the one bottle type and sensitive to at least 25 milligrams at full lead. The standard milk test bottle shall have a total percent graduation of ten (10). The graduated portion of the neck shall have a length of not less than three (3) inches and shall be graduated to tenths percent. The error at any point of the scale shall not exceed one tenth (1-10) percent; total height of bottle shall be between five and seven eights ($5\frac{7}{8}$) and six and one half ($6\frac{1}{2}$) inches. The standard cream test bottle shall be a fifty (50) per cent, nine (9) gram bottle, the total percent graduation shall be fifty (50). The graduated portion of the neck shall have a length of not less than three (3) inches and shall be graduated to five tenths (5-10) percent. The error at any point of the scale shall not exceed five-tenths (5-10) percent. Total height of the bottle shall be between five and seven-eights ($5\frac{7}{8}$) and six and one-half ($6\frac{1}{2}$) inches.

The standard Babcock milk pipette shall be graduated to deliver seventeen and six tenths (17 6-10) cubic centimeters of water at 20 degrees C. in five to eight seconds. The standard weight shall be nine (9) grams.

Sec. 15. **Violation, penalty.**—Any person violating any of the provisions of this Article shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than Ten (\$10.00) Dollars, nor more than One Hundred (\$100.00) Dollars, or be imprisoned in the county jail not exceeding three (3) months.

ARTICLE VII.

OILS

Section 1. (2553 and 2554) **Oils—inspection—marking containers.**—The department of agriculture shall inspect and test all mineral or petroleum, kerosene, gasoline or benzine or any oil

fluid or substance which is a product of petroleum or into which petroleum or any product of petroleum enters or is found as a constituent element, whether manufactured in this state or not, before the same shall be used or offered for sale. If, upon such examination in testing, said oil shall meet the requirements specified by the department of agriculture, as quoted standard, the department shall issue a certificate, certifying that said oil has been duly inspected and all tanks, reservoirs, barrels, casks, or packages shall be marked with the word "Approved" and shall affix the date of the inspection and the results of the actual tests. If such oils so examined and tested shall not meet the requirements as specified by the department of agriculture as quoted standard, said oil shall be refused and all tanks, reservoirs, barrels, casks and packages shall be marked "Rejected" and there shall be affixed the date of the inspection and results of the actual test. The department shall make or cause to be made from time to time examination of lubrication oils sold or offered for sale within this state. If upon examination any lubricating oil is found not to conform to the standards adopted or which may be hereafter adopted by the Committee on Standardization of Petroleum Specifications appointed by the order of the President of the United States of date of July 31, 1918, it shall be deemed to be adulterated, and its sale a violation of this act.

Sec. 2. **Illuminating oils—standards.**—All illuminating oils offered for sale or used in this state shall conform to the following conditions; (1) The color shall be water white, but a slight bluish opalescence is permissible. (2) It shall not contain more than a trace of any sulphur compound. (3) It shall not contain water nor tarlike matter. (4) It shall not contain more than seven per cent by weight of residue after being distilled at a temperature of not more than five hundred seventy degrees Fahrenheit. (5) It shall not give a flash test below one hundred twelve degrees Fahrenheit when tested by the oil tester known as the Foster apparatus. (6) The specific gravity shall not be less than forty degrees measured by the Beaume hydrometer at a temperature of sixty degrees Fahrenheit; except in the case of mineral seal oil, the specific gravity of which shall not be less than thirty-six degrees measured as above. (7) Any oils that present a yellowish or dark colored, dirty appearance

to the eye may be rejected and disapproved for illuminating purposes by the department without further test and the further sale thereof ordered discontinued; and such discoloration shall be prima facie evidence that they are not such a product as is properly subject to sale for illuminating purposes within this state. The department is not required in every case to have a complete analysis made of the oils inspected to ascertain every form of impurities such as sulphur and tar-like matter, but whenever in the opinion of the department, it is necessary that any of the oils provided for in this section shall be thoroughly analyzed, it shall be his duty to procure a sample of such oil and forward it to the state chemist for the purpose of a more detailed analysis to determine in what particular the imperfection or impurities exist. If upon such analysis, it is demonstrated that some other impurity or imperfection exists in said oil not in this article specified that renders such oil unfit for illuminating purposes, it shall be the duty of the department to reject such oil for such purpose.

Sec. 3. Gasoline, benzine and naptha—tests—brands.—For the purpose of this article, gasoline, benzine, and naptha shall be subject to a specific gravity test by the inspector. The department shall ascertain the specific gravity of all gasoline, benzine and naptha and shall mark in the manner provided in the second next preceding section all tanks, reservoirs, barrels or casks, containing said gasoline, benzine and naptha with the specific gravity of said gasoline, benzine, and naptha as measured by the Beaume hydrometer at a temperature of sixty degrees Fahrenheit. Every manufacturer, dealer or vendor shall brand or label the word "Gasoline" or "Benzine" or "Naptha" respectively on every tank, cask, barrel or car containing gasoline, benzine or naptha in letters at least one and one-half inches in height and shall also mark in plain figures on every tank, cask, barrel or car containing gasoline, benzine or naptha, the correct specific gravity.

No gasoline shall be sold which is below the standards adopted for motor gasoline by the Committee on Standardization of Petroleum Specifications appointed by order of the President of the United States of date of July 31, 1918. Any such gasoline which is below said standards shall be deemed to be adulterated and its sale a violation of this article.

Sec. 4. (Ch. 53, 1917) **Inspection fees.**—The fees for inspection and branding shall be as follows: (1) If less than ten such barrels be inspected at one time and place, twenty-five cents per barrel. (2) If more than ten and less than fifty barrels be inspected at one time and place, ten cents per barrel. (3) If more than fifty barrels be inspected at one time and place, six cents per barrel. Fifty gallons shall be considered a barrel. The inspection fees shall be a lien on the oil inspected until said fees are paid. The department of agriculture may sue therefor in the name of the State.

Sec. 5. (2559) **Notice reception of oils.**—All persons transacting business in this state shall immediately notify the department of agriculture when any oils mentioned herein are received by them that have not been stamped and inspected as provided in this article.

Sec. 6. **Unlawful to sell uninspected oils.**—No person whether vendor, manufacturer or dealer, shall sell or attempt to sell to any person in this state any of the oils mentioned in this article before having the same inspected as herein provided.

Sec. 7. **Violation—penalty.**—Any person violating any of the provisions in this article, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not exceeding \$100.00 or imprisoned in the county jail not exceeding three months.

ARTICLE VIII

COMMISSION MERCHANTS

Section 1. (2570 and 2571) **Commission men—license required.**—Any person, firm or corporation pursuing, or who shall pursue the business of selling farm, dairy, orchard, garden produce, wares or merchandise of any kind upon consignment for a commission, shall obtain a license therefor from the department of agriculture. The application therefor shall be made in writing, under oath, to the department of agriculture, giving the full name of such person, firm or corporation and if a partnership, the full name of the partners; if a corporation, the date of incorporation, the names of the officers, directors and stock-

holders, the state wherein incorporated, and the amount of all stock actually paid in, the name of the city or village where he or it intends to carry on such business and the character of produce for which a license to sell on commission is desired. The fee for such license shall be ten (\$10.00) dollars payable to the state treasurer subject to the rules of the secretary of finance, upon payment of which the department of agriculture shall deliver to such applicant a license to carry on the business of a commission merchant until the 31st day of December of the year in which such license is issued.

Sec. 2. (2572) **Commission Merchant give bond.**—Every person engaged in the business of selling farm, dairy, orchard, garden produce or wares of any kind upon consignment for a commission is required to give bond in the sum of two thousand dollars with good and sufficient sureties, payable to the county judge of the county in which he resides or has his principal place of business, conditioned that he will faithfully and truly perform all agreements entered into with consignors with respect to receiving, handling, selling or making remittances for consignments made to him, which bond shall be approved, filed and recorded by the county clerk of the county in which such person resides or has his principal office.

Sec. 3. (2573) **Bond—liability on.**—The bond provided for by the preceding section may be sued upon and recovery had thereon by any person who has been damaged by a breach of its conditions.

Sec. 4. (2574) **Unlawful to do commission business without license.**—No person shall engage in the business of selling farm, dairy, orchard or garden products, wares or merchandise of any kind upon consignment for a commission or advertise or solicit business as such commission merchant or pursue in any way the occupation of such commission merchant without first obtaining the license and giving the bond as provided for in this article.

Sec. 5. **Violation—penalty.**—Any person violating any of the provisions of this article shall be guilty of a misdemeanor and shall upon conviction thereof, be fined in a sum not exceeding one hundred (\$100.00) dollars or imprisoned in the county jail not exceeding three months.

ARTICLE IX

CIDER AND VINEGAR

Section 1. (2576, 2577, 2578) **Sale of cider—adulteration.**—No person shall manufacture for sale, produce, sell, keep for sale, or offer for sale as cider any preparation of cider containing salicylic acid, formaline, preservit, anti-ferment or any other drug, chemical or substance that does not belong to the apple in its natural state, nor manufacture for sale, sell or keep for sale, or offer for sale, any product or substance as cider or for cider anything other than pure apple juice. If adulterated cider is manufactured for sale, sold or kept for sale or offered for sale, the keg, cask, barrel or package shall be plainly marked "Adulterated Cider," with the approximate proportion of each drug, chemical, or substance used in its contents.

Sec. 2. (2580) **Packages to be marked.**—Every manufacturer or producer of cider vinegar, when offering it for sale, shall plainly mark or brand the cask, barrel, keg or other package with his name and place of business and the words "Cider Vinegar," and no person shall label or brand as cider vinegar or for cider vinegar any package which is not cider vinegar. Cider vinegar shall be construed to mean vinegar made exclusively from pure apple juice.

Sec. 3. (2579) **Vinegar.**—No person shall sell as apple, orchard, or cider vinegar any vinegar not made exclusively of apple cider, nor any vinegar in which foreign substances, drugs, or acids have been introduced, or which upon proper test shall contain less than one and six-tenths per cent by weight of cider vinegar solids, upon full evaporation at the temperature of boiling water.

Sec. 4. (2581 and 2582) **Adulterated Vinegar.**—Every person manufacturing for sale, keeping for sale, or offering for sale, any of the so-called grain vinegars, wine vinegars, or fruit vinegars, shall place them on the market without artificial coloring, with a brand or label on each barrel, cask or other package, clearly indicating the name and place of business of the manufacturer and the name of the grain or fruit from which the con-

tents are made. All vinegar shall be made wholly from the fruit or grain from which it is represented that it is made and shall contain not less than four per cent by weight of absolute acetic acid.

Sec. 5. (2583) **Same—harmful chemicals.**—No person shall manufacturer for sale or offer for sale, or have in his possession with intent to sell, any vinegar containing any preparation of lead, copper, sulphuric acid, or other substance or ingredients injurious to health.

Sec. 6. (2584) **Violation—penalty.**—Any person violating any of the provisions of this article, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not exceeding one hundred (\$100.00) dollars or imprisoned in the county jail not exceeding three months.

ARTICLE X

OLEOMARGARINE AND BUTTERINE

Section 1. **Imitation butter and cheese defined.**—For the purpose and within the meaning of this Article, every article, substitute or compound, other than that entirely produced from pure milk or cream from the same, made in the semblance of butter and designed to be used as a substitute for butter made from pure milk, or cream from the same, is hereby declared to be imitation butter. Every article, substance, or compound other than that produced from pure milk, or cream from the same, made in the semblance of cheese and designed to be used as a substitute for cheese made from pure milk, or cream from the same, is hereby declared to be imitation cheese. Provided: The use of salt, rennet and other harmless coloring matter for coloring the product of pure milk, or cream, shall not be construed to render such product an imitation.

For the purpose and within the meaning of this Article, any person who in any manner produces imitation butter or imitation cheese shall be considered a manufacturer thereof. Any person who sells imitation butter or imitation cheese in packages or quantities containing ten pounds or more shall be considered a wholesale dealer thereof. Any person who sells imitation butter

or imitation cheese in packages or quantities containing less than ten pounds shall be considered a retail dealer thereof.

Sec. 2. **Shipping substitutes.**—No person, firm, or corporation or their agents or employees shall ship, consign, or forward by any common carrier whether public or private, any imitation butter or imitation cheese, unless such shipping box or package shall be durably and legibly marked with the words "Imitation Butter" or "Imitation Cheese" as the case may be, in Roman letters not less than one inch in height.

Sec. 3. **Imitations—notice of use.**—No owner, manager, or employee of any place where food is served to the public shall offer, deliver or serve in any way to any person therein, whether compensation therefor is received or not, any imitation butter or imitation cheese, having a yellow color or any shade of genuine yellow, or any imitation butter or imitation cheese, unless the person so served is notified either by a statement on each bill of fare or by distinctly legible printed signs or verbally at the time said imitation butter or imitation cheese is served.

Sec. 4. **Sale of imitations—license required.**—No person, firm, or corporation or any agent or employee thereof shall produce, manufacture, or sell any imitation butter or imitation cheese, without first procuring a license from the department of agriculture. The fees charged for licenses shall be as follows: For each manufacturer of imitation butter or imitation cheese, \$100.00; for each wholesale dealer in imitation butter or imitation cheese, \$25.00; for each retail dealer in imitation butter or imitation cheese, \$1.00. Each license shall expire on July first next after its issue and shall not be transferable. No license shall be issued for a less amount than the fee stated in this Section.

Sec. 5. **Violation—penalty.**—Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten (\$10.00) dollars and not more than one hundred (\$100.00) dollars, or be imprisoned for not less than thirty (30) days, as the court may direct.

ARTICLE XI

SANITATION OF PREMISES USED FOR MANUFACTURE OR PREPARATION OF FOODS

Section 1. (2598) **Bakeries, creameries, dairies, etc.**—Every building, room, basement or cellar occupied or used as a bakery, confectionery, cannery, packing house, slaughter house, dairy, creamery, cheese factory, restaurant, hotel, grocery, meat market or other place or apartment used for the preparation for sale, manufacture, packing, storage, sale or distribution of any food, shall be properly lighted, drained, plumbed and ventilated and conducted with strict regard to the influence of such condition upon the health of the operatives, employees, clerks and other persons therein employed and the purity and wholesomeness of the food therein produced; and for the purpose of this article the term "Food" as herein used shall include all articles used for food, drink, confectionery, or condiment, whether simple, mixed or compound, and all substances or ingredients used in the preparation thereof.

Sec. 2. (2599) **Storage rooms to be kept sanitary.**—The floors, side walls, ceilings, furniture, receptacles, implements and machinery of every establishment or place where food is manufactured, packed, stored, sold or distributed, and all cars, trucks and vehicles used in the transportation of food products, shall at no time be kept in an unclean, unhealthful and unsanitary condition and for the purpose of this article unclean, unhealthful and unsanitary condition, shall be deemed to exist if food in the process of manufacture, preparation, packing, storing, sale, distribution or transportation is not securely protected from flies, dust, dirt and, as far as may be necessary by all reasonable means, from all other foreign or injurious contamination; and if the refuse, dirt and waste products subject to decomposition and fermentation incident to the manufacture, preparation, packing, storing, selling, distributing and transporting of food, are not removed daily; and if all trucks, trays, boxes, baskets, buckets and other receptacles, chutes, platforms, racks, tables, shelves and all knives, saws, cleavers and other utensils and machinery used in moving, handling, cutting, chopping, mixing, canning

and all other processes are not thoroughly cleaned daily, and if the clothing of operatives, employees, clerks or other persons therein employed is unclean.

Sec. 3. (2600) Kitchen, restaurant, bakery, kept sanitary.—The side walls and ceilings of every bakery, confectionery, creamery, cheese factory, hotel and restaurant kitchen, shall be brick, cement, plastered, wainscoted or ceiled with metal or lumber and shall be oil painted or kept well lime washed, and all interior wood work in every bakery, confectionery, creamery, cheese factory, hotel and restaurant kitchen, shall be kept well oiled or painted with oil paints or lime washed and kept clean, and every building, room, basement, or cellar occupied or used for the preparation, manufacture, packing, storage, sale or distribution of food, shall have an impermeable floor made of cement or tile laid in cement, brick, wood or other suitable non-absorbent material which can be flushed, and washed clean with water.

Sec. 4. (2601) Doors and windows screened.—The doors, windows and other openings of every food producing or distributing establishment during the fly season shall be fitted with self-closing screen doors and wire window screens of not coarser than fourteen mesh wire gauze.

Sec. 5. (2602) Toilet rooms, lavatories, etc.—Every building, room, basement or cellar occupied or used for the preparation, manufacture, packing, canning, sale, or distribution of food, shall have convenient toilet or toilet rooms, separate and apart from the room or rooms where the process of production, manufacture, packing, canning, selling or distributing is conducted. The floors of such toilet rooms shall be of cement, tile, wood, brick or other non-absorbent material and shall be kept in a thoroughly clean and sanitary condition. Such toilet or toilets shall be furnished with separate ventilating flues, or pipes, discharging into soil pipes, or on outside of the building in which they are situated. Lavatories and wash rooms shall be supplied with soap, water and towels and shall be maintained in a sanitary condition. Operatives, employees, clerks, and all other persons who handle the material from which food is prepared, or the finished product, before beginning work or after visiting toilet or toilets, shall wash their hands and arms thoroughly in clean water.

Sec. 6. (2603) **Cuspidors.**—Cuspidors for the use of operatives, employees, clerks or other persons shall be provided whenever necessary, and each cuspidor shall be thoroughly emptied and washed out daily with disinfectant solution and five ounces of such solution shall be left in each cuspidor while it is in use. No operative, employee or other person shall expectorate on the floor or sidewalls of any building, room, basement or cellar where the production, manufacture, packing, storing, preparation or sale of any food is conducted.

Sec. 7. (2604) **Kitchen, etc., not used for sleeping.**—No person shall be allowed to live or sleep in any room of a bake shop, kitchen, dining room, confectionery, creamery, cheese factory or place where food is prepared, served or sold.

Sec. 8. (2605) **Diseased persons not employed.**—No employer shall require, permit, or suffer any person to work, nor shall any person work, in a building, room, basement, cellar or vehicle occupied or used for the production, preparation, manufacture, packing, storage, sale, distribution and transportation of food, who is affected with any venereal disease, smallpox, diphtheria, scarlet fever, yellow fever, tuberculosis, consumption, bubonic plague, asiatic cholera, leprosy, trachoma, typhoid fever epidemic, epidemic dysentery, measles, mumps, German measles (Rothein), whooping cough, chicken pox or any other infectious or contagious disease.

Sec. 9. (2606) **Power and duty of agricultural department.**—The department of agriculture, shall have authority at all times to enter and inspect any building or part thereof occupied or used for the production, sale or distribution of food and to inspect all utensils or machinery used in production, sale or distribution, and if upon such inspection the department shall find any violation of the provisions of this article or that food is being produced, sold or distributed in a manner detrimental to health, the department shall issue an order in writing to the person in charge of such production, sale or distribution to abate the condition or violation or to make such improvements as may be necessary to abate such conditions, within a period of five days or such other reasonable time as may be determined by the department.

Sec. 10. **(2607) Non-compliance with orders—penalties.**—Any person who shall refuse to comply with any lawful orders or requirements of the department of agriculture issued under the preceding section, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than two hundred (\$200.00) dollars or imprisoned in the county jail not more than ninety (90) days and each day after the expiration of the time limit fixed by the order of the department for abating unsanitary conditions shall constitute a separate offense.

Sec. 11. **Violation—penalty.**—Any person violating any of the provisions of this article, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in a sum not exceeding one hundred (\$100.00) dollars or imprisoned in the county jail not exceeding three months.

ARTICLE XII

COLD STORAGE WAREHOUSES

Section 1. **(2608) Definitions.**—The term “cold storage” as used in this article shall be construed to mean a place artificially cooled to a temperature of 40 degrees F., or below, but shall not include such a place in a private home, nor any place having a refrigerating space of less than one hundred feet.

The term “cold storage” as used in this article shall be construed to mean the keeping of “articles of food” in “cold storage” for a period exceeding sixty days.

The term “articles of food” as used in this article shall be construed to mean and include all articles used for food, drink confection or condiment by man or animal, whether simple, mixed or compound.

Sec. 2. **(2609) Cold storage warehouse—license.**—Any person desiring to operate a cold storage or refrigerating warehouse, shall make application in writing to the department of agriculture for that purpose, stating the location of the plant or plants. On receipt of the application, the department shall cause an examination to be made into the sanitary condition of said plant or plants, and if found to be in a sanitary condition

and otherwise properly equipped for the business of cold storage, the department shall cause a license to be issued authorizing the applicant to operate a cold storage or refrigerating warehouse for and during the period of one year. All licenses shall expire on the 31st day of December of the year in which they are issued. The license shall be issued upon payment by the applicant of a license fee of five dollars to the treasurer of the state subject to the rules of the secretary of finance.

Sec. 3. (2610) Unsanitary places prohibited—inspection.— In the event that any place or places, or any part thereof, covered by a license, under the provision of this article, shall at any time be deemed to be in an unsanitary condition, it shall be the duty of the department to notify licensee of such condition; and upon the failure of the licensee to put such specified place or places, or the specified part thereof, in a sanitary condition within a designated time, it shall be the duty of the department to prohibit the use under its license of such specified place, or part thereof, as it deems in an unsanitary condition until such time as it may be put in a sanitary condition.

Sec. 4. (2611) Records—reports.— Every person licensed to operate a cold storage or refrigeration warehouse shall keep an accurate record of the receipts and the withdrawals of the articles of food, and such food stuffs as may have been previously held in storage, and an accurate record of the length of time of such storage and the department shall have free access to these records at any time. Every such person shall submit a quarterly report to the department setting forth in itemized particulars the quantity of food products held in cold storage. Such quarterly reports shall be filed on or before the sixth day of January, April, July and October of each year, and the reports so rendered shall show the conditions existing on the first day of the month in which the report is filed. The department shall have the authority to require such reports to be made at more frequent intervals than the times herein specified, if in its judgment more frequent reports shall be needed in the interest of a proper enforcement of this article, or for other reasons affecting the public welfare. The reports herein required shall be verified and sworn to by some managing officer or agent of the cold storage plant or refrigerating warehouse.

Sec. 5. **(2612) Food—unsanitary.**—No article of food intended for human consumption shall be placed in cold storage if diseased or tainted or deteriorated so as to injure its keeping qualities, or if not slaughtered, handled and prepared for storage in accordance with the pure food and sanitary food laws and such rules and regulations as may be prescribed by the department of agriculture for the sanitary preparation of food products for cold storage, under the authority hereinafter conferred. Any article of food, if intended for use other than human consumption, before being cold stored, shall be marked by the owner in accordance with forms prescribed by the department (under authority hereinafter conferred) so as to plainly indicate the fact that such articles are not to be sold for human food.

Sec. 6. **(2613) Inspection.**—The department shall inspect and supervise all cold storage or refrigerating warehouses in this state, and make such inspection of the entry of articles of food therein as it may deem necessary to secure proper enforcement of this article. The department shall be permitted access to such establishments and all parts thereof at all reasonable times for purposes of inspection and enforcement of the provisions of this article.

Sec. 7. **(2614) Containers—marking—recording.**—All food, when deposited in any cold storage or refrigerating warehouse, shall be properly and securely packed in suitable containers and each container shall at the time of deposit be plainly, legibly and indelibly marked with a correct distinctive serial lot number of such deposit; said marking to be done under the direction of the operator of the storage so as to readily and certainly identify each item of deposit. Such serial number shall refer to proper records kept by said person licensed to operate said cold storage or refrigerating warehouse; and every such person shall keep an accurate and full record of said serial lot number of such deposit, together with a complete record showing from whom said articles in storage were received, the number and kind of packages and kind of food, and the place in said cold storage or refrigerating warehouse where said goods are deposited, and shall keep an accurate and full record of the date of the receipts and withdrawals of such deposits and shall not remove said deposit from the place designated in said records without making a record

thereof. When such food is withdrawn from such storage or refrigerating warehouse, each container thereof shall then in like manner be marked with the true dates of entry and withdrawal. Such markings shall be done under the directions of the operator of the cold storage or refrigerating warehouse so as to readily and certainly identify each article so deposited. Where the owner, of foods or operators of the cold storage or refrigerating warehouse shall desire to withdraw such goods for consignment and consumption without this state, such operator may deliver such goods to a carrier for shipment without the state without marking thereon the dates of entry and withdrawal as herein required; but said operator shall keep an accurate record of all such withdrawals that are not so marked and make a full and complete report thereof to the department of agriculture.

Sec. 8. (2615) Length of time in storage.—No person as owner or controllers shall keep in cold storage any article of food for a longer period than twelve months, except with the consent of the department of agriculture as hereinafter provided. The department of agriculture may, upon application, grant permission to extend the period of storage beyond twelve months for a particular consignment of foods, if the foods in question are found, upon examination, to be in proper condition for further storage at the end of twelve months. The length of time for which further storage is allowed shall be specified in the order granting the permission.

Sec. 9. (2616) Notice to purchasers.—No person shall sell, or offer or expose for sale articles of food which have been held in cold storage, without notifying persons purchasing or intending to purchase the same that they have been so kept, nor represent or advertise as fresh goods articles of food which have been held in cold storage.

Sec. 10. (2617) Released food to be returned.—No person shall return to cold storage any article of food that has once been released from such storage and placed on the market for sale to consumers; but nothing in this section shall be construed to prevent the transfer in good faith of goods from one cold storage or refrigerating warehouse to another.

Sec. 11. (2619) Inspection fees.—The operators of cold storage warehouses shall pay an annual inspection fee of (to)

the department of agriculture of ten dollars for each cold storage place having a refrigerator space of less than fifty thousand cubic feet, and twenty-five dollars for each storage place having a refrigerator space of fifty thousand cubic feet, and less than one hundred thousand cubic feet, and fifty dollars for each such storage place having a refrigerator space of one hundred thousand cubic feet or more.

Sec. 12. **(2618) Rules and regulations.**—The department of agriculture may make rules and regulations to secure a proper enforcement of the provisions of this article including rules and regulations with respect to the sanitary preparation of articles of food for cold storage and the use of marks, tags, or labels, and the display of signs, and any person who shall violate any such rule or regulation shall forfeit his license to operate a cold storage warehouse, or the department may in its discretion suspend such license until the rules and regulations have been complied with.

Sec. 13. **Violation—penalty.**—Any person violating any of the provisions of this article, shall, on conviction be fined in a sum not exceeding one thousand (\$1,000.00) dollars or imprisoned in the county jail not exceeding three months.

ARTICLE XIII

PAINTS

Section 1. **(5761) “Paint” defined.**—The term “paint” as used in this article shall include white lead, basic carbonate or sublimate in any kind of oil, or any compound intended for the same use, paste or semi-paste, and liquid or mixed paint ready for use.

Sec. 2. **(5759) Selling paint not true to label—penalty.**—No person shall expose for sale or sell within this state any paint or linseed or flaxseed oil which is labeled or marked in any manner so as to tend to deceive the purchaser as to its nature or composition, or which is not accurately labeled as hereinafter required.

Sec. 3. **(5760) Label—what to show.**—The label required by this article shall be printed in the English language, in clear,

legible type, and shall clearly and distinctly state the name and residence of the manufacturer of the paint, or the distributor thereof, or of the party for whom the same is manufactured, and show the name, and, with substantial accuracy, the percentage of each ingredient, both solid and liquid, contained therein. In case of paint, other than white paint, the ingredients other than the coloring material may be treated as one hundred per cent, and the label thereof shall state the name and percentage of each ingredient other than the coloring matter, and the description or trade name of such coloring material, and, with substantial accuracy, its chemical analysis, the quantity contained in the package, which, in the case of liquid or mixed paints, shall be designated in standard gallons or fractions thereof, and in the case of paste or semi-paste paints, such as are commonly sold by weight, the avoirdupois weight.

Sec. 4. (5762) Linseed oil—test—how sold—No person shall manufacture for sale or offer or expose for sale any flaxseed or linseed oil, representing the same to be pure, unless the same answers all the chemical tests for purity recognized in the United States Pharmacopoeia; or any flaxseed or linseed oil as “pure boiled linseed oil” unless the same in the process of manufacture shall have been raised to a temperature of two hundred and twenty-five degrees Fahrenheit and contain not to exceed six per cent by weight of drier.

Sec. 5. (5763) Linseed oil—how labeled.—No person shall sell, expose or offer for sale any flaxseed or linseed oil as pure except (by) its true name, and unless each tank car, tank barrel, keg or any vessel of such oil has distinctly and durable painted, stamped, stenciled or labeled thereon the true name of such oil, in ordinary bold face capital letters, the words “pure linseed oil raw” or “pure linseed oil boiled,” and the name and address of the manufacturer thereof or of the person for whom the same is manufactured, and the same shall be sold only under the brand of such manufacturer or person for whom the same is manufactured. Nothing in this article shall be construed as prohibiting the manufacture or sale of linseed oil compound, but if such compound is designed to take the place of linseed oil, it shall not be manufactured or mixed for sale, sold, offered, or exposed for sale under any title or designation conveying the impression,

either directly or indirectly, that it is pure flaxseed or pure linseed oil. All compounds of linseed or flaxseed oil shall when offered or exposed for sale under invented proprietary names or titles, bear conspicuously upon the containing vessel, in addition to the label herein required, in capital letters, not less than five lines pica in size, the word "Compound."

Sec. 6. (5764) Possession of mislabeled paint or oil.—Possession by any person dealing in said articles, of any article or substances hereinbefore described not properly labeled, as provided in this article, shall constitute prima facie evidence that the same is kept by such person, in violation of the provisions of this article.

Sec. 7. (5759) Violation—penalty.—Any person violating any of the provisions of this article, shall be fined in any sum not exceeding one hundred (\$100.00) dollars or imprisoned in the county jail not exceeding three months.

ARTICLE XIV

SEEDS

Section 1. (Ch. 158, 1917) Seed packages—labels—requirements.—Every parcel, package or lot of agricultural seeds as defined in Section 4 of this article, containing ten pounds or more, offered or exposed for sale in the state of Nebraska, for use within this state, shall have affixed thereto in a conspicuous place on the outside thereof, distinctly printed in the English language, in legible type not smaller than eight point heavy gothic caps, or plainly written, a statement certifying:

1st. Name of seed.

2nd. Full name and address of the seedsman, importer, dealer or agent.

3rd. Whether seed is "Standard" or "Below Standard" as defined in Section 11 of this act. If the seed is "Below Standard," the label must also indicate the per cent of purity, germination, foreign seeds and inert matter.

4th. Locality where seed was grown, when known.

Sec. 2. **Seed analysis.**—The department of agriculture shall as far as possible, cause to be made analysis of all agricultural seeds sold or offered for sale in this state. Said department is hereby authorized upon offering to the person entitled thereto the full value thereof, to take for analysis, a sample not exceeding four ounces in weight from any lot or package of agricultural seeds. Said sample shall be drawn or taken in the presence of the party or parties in interest or their representatives, and shall be taken from a parcel, lot or number of parcels which shall not be less than five per cent of the whole lot inspected, and shall be thoroughly mixed and divided into two samples and placed in carefully sealed containers and a label put on each stating the name and brand of the agricultural seeds sampled, the name of the party from whose stock the sample is drawn and the date and place of taking such sample, and said label shall be signed by the said department of agriculture or its authorized agent or inspector; or such sample may be taken in the presence of two disinterested witnesses. One of such duplicate samples shall be left on the premises of the party whose stock was sampled and the other retained by the department of agriculture for analysis and comparison with the certified statements required by law.

Sec. 3. **Same.**—Any resident of this state may submit fair samples of seeds to the department of agriculture which shall, without charge, cause an analysis of the same to be made.

Sec. 4. **Seed defined.**—The term “agricultural seeds,” as used in this article shall include the seeds of red clover, white clover, alsike clover, sweet clover, alfalfa, Kentucky blue grass, brome grass, timothy, orchard grass, red top, meadow fescue, cat grass, rye grass and other grasses and forage plants, rape and cereals.

Sec. 5. **Weed seed.**—No person shall sell, offer or expose for sale or distribution in this state, for the purpose of seeding, any of the agricultural seeds as defined in the next preceding section, if said seeds contain more than one in ten thousand of the seeds of the following weeds: Small flowered morning glory (*Convolvulus arvensis*), wild mustard or charlock (*Brassica arvensis*), quack grass (*Agropyron repens*), Canada thistle (*Carduus arvensis*), wild oats (*Avena fatua*), corn cokle (*Agrostemma*

githago) and all species of dodder (*Cuscuta* spp.). If said agricultural seeds contain any of the above named weed seeds, the presence of such seeds must be indicated on the label specified in Section 1 of this article.

Sec. 6. **Same—label statements.**—When seed that is claimed to be a single kind of agricultural seed, contains by weight two per cent or more of the seeds of a single species of weed, the name and per cent of each kind of foreign seed present to this extent must be plainly indicated on the statement affixed to the container of the seed.

Sec. 7. **Impurities defined.**—In agricultural seeds “impurities” within the meaning of this article shall consist of the following classes:

1. Foreign seeds, i. e., seeds of any agricultural seed other than the sample is claimed to be, or seeds of any weed.

2. “Inert matter,” i. e., broken pieces of all seeds whatsoever which are half or less than half of the original seed; bits of chaff, stones, stems or any other non-germinable material.

When such impurities, or any of them, are present in agricultural seeds, sold, offered or exposed for sale in this state, for the purpose of seeding, in quantity exceeding the standard of purity and viability authorized in section 11 of this article, the name and approximate per cent, of each shall be plainly indicated in the statement specified in section 1 of this article.

Sec. 8. **Mixed or adulterated seed.**—For the purpose of this article seeds shall be deemed to be mixed or adulterated when any seed of less commercial value is mixed to the extent of five per cent or more by weight with any agricultural seed of greater commercial value.

Sec. 9. **Misbranded.**—For the purpose of this article seed shall be deemed to be misbranded when the seeds are not true to the name under which they are sold.

Sec. 10. **Seed to which act not applicable.**—The provisions concerning agricultural seeds contained in this article shall not apply to:

1. Any person growing or selling seeds for food purposes only, or having such seeds in possession for sale for such purposes.

2. The sale of seed that is grown, sold and delivered by any farmer on his own premises for seeding by the purchaser himself, nor the sale of seed by such farmer to merchants to be cleaned and graded before being offered for sale for the purpose of seeding, unless the purchaser of said seeds obtains from the seller at the time of sale thereof a certificate that the said seed is supplied to the purchaser subject to the provisions of this article. This shall not, however, exempt the seller from the restrictions of sections 5 and 6 of this article.

Sec. 11. **Standard of purity.**—The following standards of purity (meaning freedom from “foreign seeds” and “inert matter” as defined in section 7) and viability (germination) are hereby fixed. Credit shall be given in a germination test for one-third the hard seeds.

Name of Seed	Percent of Purity	Percent of Germinable Seeds
Alfalfa (<i>Medicago Sativa</i>).....	96	80
Barley (<i>Hordeum</i>)	98	90
Blue Grass, Canadian (<i>Poa compressa</i>).....	80	45
Blue Grass, Kentucky (<i>Poa pratensis</i>).....	80	45
Brome Grass, awnless (<i>Bromis inermis</i>).....	80	75
Clover, alsike (<i>Trifolium hybridum</i>).....	92	75
Clover, red (<i>Trifolium pratense</i>).....	92	80
Clover, white (<i>Trifolium repens</i>).....	90	75
Corn, kaffir (<i>Andropogen sorghum</i>).....	90	75
Corn, other than sweet (<i>Zea mays</i>).....	99	89
Corn, sweet (<i>Zea mays sacharata</i>).....	99	70
Fescue, meadow (<i>Festuca pratensis</i>).....	95	80
Flax, (<i>Linum usitatissimum</i>).....	96	84
Feterita (<i>Andropogen sorghum</i>).....	90	75
Milo (<i>Andropogen sorghum</i>).....	90	75
Millet, common (<i>Chaetochloa italica</i>).....	90	80
Millet, hog (<i>Panicum miliaceum</i>).....	90	80
Oats, (<i>Avena sativa</i>).....	98	85
Oat grass, tall (<i>Arrhenatherum elatius</i>).....	72	65
Orchard grass (<i>Bactylis glomerata</i>).....	70	65
Rape (<i>Brassica napus</i>).....	99	85
Red top (<i>Agrosiis alba</i>).....	90	70
Rye (<i>Secale cereale</i>).....	98	85
Rye grass, perennial (<i>Lolium perenne</i>).....	85	75
Rye grass, Italian (<i>Lolium italicum</i>).....	85	75
Sorghum or Cane (<i>Andropogen sorghum</i>).....	96	75
Cane for fodder.....	90	55

Sudan grass (<i>Andropogon sorghum</i>).....	90	80
Sweet clover, white biennial (<i>Melilotus alba</i>)	95	75
Sweet clover, yellow biennial (<i>Melilotus</i> <i>officinalis</i>)	95	75
Timothy (<i>Phleum pratense</i>).....	95	80
Vetch, sand (<i>Vicia villosa</i>).....	95	85
Wheat (<i>Triticum</i>)	98	85

Sec. 12. **Penalties.**—Whoever sells, offers or exposes for sale any of the seeds specified in section 4 of this article, which are mixed, adulterated or misbranded or any agricultural seeds which do not comply with Sections 5, 6 and 7 of this article, or who shall prevent or attempt to prevent the department in the discharge of its duty from collecting samples; or who shall violate any of the provisions of this article shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred (\$100.00) dollars and costs of prosecution.

ARTICLE XV

(Ch. 192, Laws 1915)

COMMERCIAL FEEDING STUFFS

Section 1. **Commercial feeding stuffs—defined.**—The term “Concentrated Commercial Feeding Stuffs” as used in this article, shall include all feeding stuffs used for feeding live stock and poultry except whole unmixed seeds or grains, when not mixed with other materials, whole hays, straws and corn stover, and unmixed meals made from the entire grains of wheat, rye, oats, Indian corn, buckwheat or broom corn.

Sec. 2. **Name—weight—manufacture, etc., stated on package.**—Every lot, barrel, bag, pail, parcel or package of concentrated commercial feeding stuff, as defined in section 1 shall have affixed thereto a tag or label in a conspicuous place on the outside thereof, containing a legible and plainly printed statement in the English language, in type as large as ten point, clearly and truly certifying:

1. The net weight of the package.
2. The name, brand or trade mark under which the feed is sold.

3. The name and address, of the manufacturer, importer, dealer or agent.

4. The minimum percentum of crude protein, and crude fat, the maximum percentum of crude fiber, and the specific name of each ingredient used in its manufacture.

The several constituents as named above shall be determined by the methods adopted by the Association of Official Agriculture Chemists of the United States.

Sec. 3. Sample delivered to food commissioner.—Before any person shall sell, offer or expose for sale or distribute in this state, any concentrated commercial feeding stuff he or they shall file, when so requested, with the department of agriculture, a sealed glass jar or bottle containing not less than one pound of the feeding stuff to be sold, offered or exposed for sale or distributed in this state, accompanied with an affidavit that it is a fair average sample thereof and corresponds to the feeding stuff which it represents.

Sec. 4. Inspection—tax.—Every person manufacturing or selling any concentrated commercial feeding stuff, as defined in section 1 of this article shall pay to the department of agriculture an inspection tax of ten cents for each ton of concentrated commercial feeding stuffs sold, offered or exposed for sale or distributed in this state, and shall affix to or accompany each lot shipped in bulk, and to each parcel of such concentrated commercial feeding stuffs a tag or stamp, to be furnished by the department of agriculture, stating that all charges specified in this section have been paid. Whenever any concentrated commercial feeding stuffs as defined in section 1, are exposed or offered for sale in bulk or stored, the person keeping the same for sale shall keep on hand cards upon which shall be printed the statement required by the provisions of section 2; and when such feeding stuffs are sold at retail in bulk or in packages belonging to the purchaser, the vendor shall furnish the purchaser with sufficient tax tags or stamps to cover the sale, and, upon request, with a card or cards upon which appear the statement required by the provisions of section 2. No inspection fee shall be required for the sale of unadulterated wheat, rye and buckwheat bran, nor, for the sale of wheat, rye and buckwheat shorts manufactured in this state.

Sec. 5. **Analysis.**—The department of agriculture may take for analysis a sample from any lot or package of feeding stuffs not exceeding two pounds in weight. Said sample shall be taken in the presence of a person in interest or his representative and shall be taken from parcel lot or number of parcels which shall not be less than five per cent of the whole lot inspected. The sample so taken shall be divided into two parts placed in separate containers and carefully sealed and labeled. The label shall state the name or brand of the feeding stuff and the name of the person from whose stock it was taken, and the date and place of taking of sample. The label shall be signed by the representative of the department of agriculture. One of the samples shall be left on the premises and the others shall be retained by the department for analysis and comparison of the certified statement on file with the department.

Sec. 6. **Purchaser may have analysis made.**—Any person purchasing any concentrated commercial feeding stuffs in this state for his own use may submit fair samples thereof to the department of agriculture, which, upon receipt of an analysis fee of one dollar for each sample shall cause an analysis of the same to be made.

Sec. 7. **Unlawful acts.**—No person shall counterfeit or use a counterfeit of any of the tags prescribed by this article, or use any tags or stamps a second time or prevent or attempt to prevent the department of agriculture, from collecting samples.

Sec. 8. **Violation—penalty.**—Any person who shall violate any of the provisions of this article, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be fined in a sum not exceeding one hundred (\$100.00) dollars or be imprisoned in the county jail not exceeding three months.

ARTICLE XVI

(Ch. 193, Laws 1915)

LIVE STOCK REMEDY

Section 1. **Live stock remedy, defined.**—The term “live stock remedy” as used in this article, shall be held to include all condimental feeds, medicated stock foods, medicinal stock

food, stock food tonics, stock powders, proprietary medicines, and all preparations of like nature designed for any animal, except man, to be administered internally for their stimulating, invigorating, curative or other powers.

Sec. 2. Each package to be labeled of weight, ingredients, etc.—Every barrel, bag, pail, parcel or package of live stock remedy as defined in section 1 of this article shall have affixed thereto in a conspicuous place on the outside thereof, distinctly printed in the English language in legible type, not smaller than eight point heavy gothic caps, or plainly written, a statement certifying:

1. The net weight or measure in the package.
2. The name, brand or trade mark under which the article is sold.
3. The name and address of the manufacturer, importer, dealer or agent.
4. The name and percentage of any poisonous or deleterious ingredient and the name and percentage of diluents or bases present.

Sec. 3. Diluent or bases.—For the purpose of this article the term “diluent” or bases shall include millfeeds of all kinds, elevator dust, linseed meal, earth, salt, sand, ashes, slacked lime, gypsum, tale, and other inert or non-medicinal ingredients.

Sec. 4. Deceptive branding unlawful.—No “Live Stock Remedy” shall be labeled or branded so as to deceive or mislead the purchaser in any way, and the contents of any such package shall not be substituted in whole or in part for any other contents and no other material shall be substituted for the contents of any such package. Every statement, design or device upon the label or package regarding the substances contained therein shall be true and correct, and every representation made for the feeding, condimental, tonic, or medicinal value, shall be true.

Sec. 5. Dealer to register.—No person shall offer or expose for sale any live stock remedy as defined in section 1 of this article, until he shall have registered each brand of live stock remedy offered for sale, with the department on blanks fur-

nished by it, on which shall be stated a list of ingredients composing said remedy. A fee of \$5.00 shall be collected by the department of agriculture for each brand registered.

Sec. 6. **Violation—penalty.**—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor and on conviction thereof be fined in any sum not exceeding one hundred (\$100.00) dollars or be imprisoned in the county jail not exceeding three months.

ARTICLE XVII

HOTELS AND INNS

Section 1. (3111) **“Hotel” defined—use of term—registration certificate.**—Every building or other structure, kept, used, maintained, advertised or held out to the public to be a place where food is served and sleeping accommodations are offered for pay, to transient guests, in which five or more are used for the accommodation of such transient guests, and having one or more dining rooms or cafes where meals or lunches are served to such transient guests, such sleeping accommodations and dining rooms being conducted in the same building, and under the same management, together with any buildings in connection therewith, shall for the purpose of this article, be deemed a “hotel.” Such only shall have the right to use the name “hotel” in connection with their business, and, upon proper application, the department of agriculture shall issue to the person conducting such business, a certificate of registration for a hotel.

Sec. 2. (1312) **“Rooming House” defined—registration certificate.**—Every building or other structure, kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are furnished for pay, to transient or permanent guests, in which five or more rooms are used for the accommodation of such guests, but which does not maintain dining rooms or cafes in connection therewith, shall, for the purpose of this article, be deemed a “rooming house,” and shall not have the right to the use of the name “hotel” in connection with such business. Upon proper application, the de-

partment of agriculture shall issue to the person conducting such business a certificate of registration for a rooming house.

Sec. 3. (3113) "Apartment House" defined—registration certificate.—Every building or other structure, kept, used, maintained, advertised or held out to the public to be a place where accommodations for sleeping rooms, either single or in suites for light housekeeping, or both, but where no dining room or cafe is maintained in the same building, or under the same management, and where one or more families, or tenants aggregating twenty persons or more, occupy said building, together with any buildings in connection therewith, shall for this article be deemed to be an "apartment house," and shall not have the right to use the name "hotel" or "rooming house" in connection with such business. Upon proper application, the department of agriculture shall issue to the person conducting such business a certificate of registration for an apartment house.

Sec. 4. (3114) "Restaurant" defined—registration certificate.—Every building or other structure, kept, used, maintained, advertised, or held out to the public to be a place where meals and lunches are served, without sleeping accommodations, together with all outbuildings in connection therewith, shall, for the purpose of this article, be defined to be a "restaurant" and upon proper application, the department of public welfare shall issue to the person owning such business a certificate of registration for a restaurant.

Sec. 5. (3115) Registration Certificates.—On or before July 1st in each year, every person engaged in the business of conducting a hotel or restaurant, or both, or a rooming house or apartment house, shall procure a certificate of registration for each hotel, rooming house, apartment house or restaurant, so conducted. One certificate shall be sufficient for each combined hotel and restaurant where both are conducted in the same building, and under the same management. Every certificate of registration shall expire on the thirtieth day of June, next following its issuance. No hotel, rooming house, apartment house or restaurant shall be maintained and conducted in this state without a certificate of registration therefor. No certificate of registration shall be transferable.

Sec. 6. (Ch. 70, Laws 1917) **Registration fees.**—The registration fee for each rooming house, apartment house, restaurant or hotel having less than twenty sleeping rooms shall be two dollars, for hotels which contain twenty and not more than thirty sleeping rooms, the registration fee shall be three dollars, with an additional charge of one dollar for each additional ten rooms. Such fee shall be paid to the state treasurer under the direction of the department of finance before the certificate of registration is issued. Said certificate of registration shall be kept properly framed and in a conspicuous place in the office of said hotel, rooming house, apartment house, or restaurant. Said certificate of registration may be cancelled for cause by the department of agriculture at any time.

Sec. 7. (3117) **Application blank.**—The department of agriculture shall, upon request, furnish to any applicant for a certificate under this article the necessary blank which the applicant shall fill in, stating the full name and address of the owner and agent of the building, or both, the lessee and manager, together with a full description of the building and property to be used, and the location of the same. The application shall be accompanied by the registration fee.

Sec. 8. (3120) **Plumbing—lighting—ventilation—sanitation, etc.**—Every hotel, rooming house, apartment house and restaurant in this state shall be properly plumbed, lighted and ventilated, and shall be conducted in every department with strict regard to health, comfort and safety of the guests. Each sleeping room shall have at least one door, one window and a transom as wide as the door, leading into the hallway. No room shall be used for a sleeping room which does not open to the outside of the building or upon light wells, air shafts or courts. In each sleeping room there must be at least one window affording easy access to the outside of building, light wells or courts.

Sec. 9. (3121) **Water closets.**—In all cities and villages where water works and sewer system are maintained for public use, every hotel, rooming house, apartment house and restaurant therein operated shall be equipped with suitable and sanitary toilet facilities. All lavatories, bath tubs, sinks, drains, closets and urinals in such hotels, rooming house, apartment houses or

restaurants must be connected by proper plumbing with the water and sewer systems.

Sec. 10. **(3122) Privies.**—In all cities and villages not having a system of waterworks, every hotel, rooming house, apartment house or restaurant shall have properly constructed privies or over vaults to receive the night soil, the same to be kept clean and well screened at all times, and free from all filth of every kind.

Separate apartments, properly designated, shall be furnished for each sex.

Sec. 11. **(3123) Washroom.**—Every hotel or restaurant in this state shall be provided with a main wash room, convenient and of easy access of (to) guests.

Sec. 12. **(3129) Towels.**—All hotels and restaurants in this state shall furnish in the main public wash room, individual towels, in view and reach of the guests, and in each bedroom two clean towels, for each guest. Individual towels shall not be less than ten inches wide and fifteen inches long.

Sec. 13. **(3130) Sheets—pillow slips.**—All hotels and rooming houses shall provide each bed, bunk, cot or other sleeping place for the use of guests with pillow slips and under and top sheets. Every sheet shall be not less than ninety-nine inches long and of sufficient width to completely cover the mattresses and spring. Sheets and pillow slips shall be made of white cotton or linen, and, after being used, shall be washed and ironed before they are used by another guest.

Sec. 14. **(3131) Bedding material—vermin.**—All bedding, including mattresses, quilts, blankets, pillows, sheets and comforts used in any hotel or rooming house, shall be thoroughly aired, disinfected and kept clean. Ragged bedding shall not be used. Every room in a hotel, rooming house or restaurant, infected with vermin or bed bugs, shall be fumigated, disinfected and renovated until all vermin or bed bugs are exterminated.

Sec. 15. **Inspection—prosecution.**—The department of agriculture shall at least once annually, inspect every hotel, rooming house, apartment house or restaurant in this state. It shall have the right of entry and access to any such places at any reasonable time. Whenever upon inspection the department shall find

that such places or the property so inspected, is not conducted or equipped as required by the provisions of this article, the department shall notify the owner, proprietor, or agent in charge thereof. Such notice shall be in writing and shall specify the requirements of the department to make such place of business conform to the requirements of this article, and the time within which compliance must be had. If the requirements of the department in such notice specified are not complied with within the time in such notice specified, the department may order the premises closed for use as hotel, rooming house, apartment house or restaurant until all the provisions of this article shall be complied with and if such closing order is not obeyed, the owner, proprietor, or agent in charge shall be enjoined and restrained by order of court upon a petition and showing of such violation by the **department**.

Sec. 16. **Notice to comply.**—If, upon inspection, the department shall find that any of the provisions of this article are being violated, it shall serve notice in writing upon the owner, agent, lessee, or manager of the building or premises, which notice shall specify the time allowed for complying with the provisions hereof that if upon expiration of such time the provisions of this article have not been complied with, a restraining order and injunction shall issue upon a petition showing such violation.

Sec. 17. **Violation—penalty.**—Any person violating any of the provisions of this article, shall be fined in a sum not exceeding one hundred (\$100.00) dollars or imprisoned in the county jail not exceeding three months.

ARTICLE XVIII

WEIGHTS AND MEASURES

Section 1. **Department of agriculture to enforce law.**—The department of agriculture shall be charged with the execution and enforcement of all laws relating to weights and measures and with the supervision of all regulatory law in respect to weights and measures in this state.

Sec. 2. (7514) **Standard weights and measures.**—Such standard weights and measures as have been furnished to this

state by the government of the United States, in accordance with a joint resolution of Congress, approved June 14, 1836, and such weights, measures, balances and measuring devices as may be received from the United States as standard weights, measures, balances, and measuring devices, in addition thereto, or in renewal thereof, shall be authorized standards of the state of Nebraska.

Sec. 3. (7515) **Bushel—subdivisions.**—A bushel shall consist of two thousand one hundred and fifty cubic inches. The half bushel, peck and half peck shall consist of the proper division and subdivision of the bushel.

Sec. 4. (7516) **Gallon.**—A gallon shall consist of two hundred and thirty-one cubic inches.

Sec. 5. (7517) **Pound.**—A pound avoirdupois shall consist of seven thousand grains in Troy weights.

Sec. 6. (7518) **Units of length and surface.**—The units of standard, and measures of length and surface from which all other measures of extension, whether lineal, superficial or solid, shall be derived and ascertained, are the standards of length designated in this article. The yard is divided into three equal parts called feet and each foot into twelve equal parts called inches. For measures of cloth and other commodities commonly sold by the yard, the yard may be divided into halves, quarters, eighths and sixteenths. The rod, pole or perch contains five and one-half yards; the mile seventeen hundred and sixty yards. The chain for measuring land is twenty-two yards long, and is divided into one hundred equal parts called links. The acre for land measure shall be measured horizontally and contain ten square chains, equivalent in area to a rectangle sixteen rods in length and ten in breadth, six hundred and forty acres being contained in a square mile.

Sec. 7. (7519) **Units of weight.**—The units of standard of weight from which all other weights shall be derived and ascertained, shall be the standard weights designated in this article. The hundred weight consists of one hundred avoirdupois pounds, and a ton contains twenty hundred weights. Wherever hereafter in this article the word “pound” is used it shall mean the avoirdupois pound unless otherwise distinctly specified.

Sec. 8. (7520) Units of dry measure.—The units of standards of measure of capacity for commodities not liquids, from which all other measures shall be derived and ascertained, shall be the standards for such commodities designed in this article. The peck, half peck, quarter peck, quart, pint, and half pint measures for measuring commodities which are not liquids shall be derived from the half bushel by successively dividing the measure by two.

Sec. 9. (7521) Units of liquid measure.—The units of standards and measure of capacity for liquids, from which all other measures shall be derived and ascertained, shall be the standard liquid measures designated in this article. The liquid gallon shall be divided by continual division by the number two so as to make half gallons, quarts, pints, half pints and gills.

Sec. 10. (7522) Electrical measures.—The standards of electrical measures recognized by the national bureau of standards, when procured by the state, shall be the standard of electrical measures in the state of Nebraska.

Sec. 11. (7523) Metric weights and measures.—The weights and measures of the metric system shall be legal weights and measures in the state of Nebraska.

Sec. 12. Weights per barrel and per bushel.—Whenever any of the articles or commodities mentioned in this section shall be sold by the bushel or fractional part thereof, and no special agreement shall be made in writing, the measure thereof shall be ascertained by avoirdupois weight, and shall be computed as follows:

Apples	48 pounds
Apples, dried	24 pounds
Alfalfa seed	60 pounds
Barley	48 pounds
Beans, green, unshelled.....	56 pounds
Beans, dried	60 pounds
Beans, Lima	56 pounds
Beets	56 pounds
Blue grass seed.....	18 pounds
Bran	20 pounds
Bromus inermis	14 pounds
Broom corn seed.....	50 pounds
Buckwheat	50 pounds

Carrots	50 pounds
Castor beans, shelled.....	50 pounds
Charcoal	20 pounds
Cherries	40 pounds
Clover seed	60 pounds
Coal	80 pounds
Coke	40 pounds
Corn in ear, husked (field).....	70 pounds
Corn in ear, unhusked (field).....	75 pounds
Corn shelled (field).....	56 pounds
Cornmeal	48 pounds
Cucumbers	48 pounds
Emmer	48 pounds
Flax seed	56 pounds
Grapes, with stems.....	40 pounds
Hemp seed	44 pounds
Hickory nuts, hulled.....	50 pounds
Kaffir corn	56 pounds
Lime	80 pounds
Millet seed	50 pounds
Oats	32 pounds
Onions	57 pounds
Onion top sets.....	28 pounds
Onion bottom sets.....	32 pounds
Orchard grass seed.....	41 pounds
Osage orange seed.....	32 pounds
Parsnips	50 pounds
Peaches	48 pounds
Peaches, dried	33 pounds
Peanuts	22 pounds
Pears	45 pounds
Peas, green, unshelled.....	50 pounds
Peas, dried	60 pounds
Plums	48 pounds
Popcorn on the ear.....	70 pounds
Popcorn, shelled	56 pounds
Potatoes	60 pounds
Quinces	48 pounds
Grape seed	50 pounds
Red top seed.....	14 pounds
Rutabaga	60 pounds
Rye	56 pounds
Rye grass seed.....	22 pounds
Salt	80 pounds
Sand	130 pounds
Shorts	20 pounds
Sorghum saccharatum seed.....	50 pounds

Spelt (emmer)	48 pounds
Sweet corn	50 pounds
Sweet potatoes	50 pounds
Timothy seed	45 pounds
Tomatoes	56 pounds
Turnips	55 pounds
Walnuts, hulled	50 pounds
Wheat	60 pounds
All root crops not specified above.....	50 pounds

The net weight per barrel or bushel or divisible merchantable quantities shall be as follows and no packages other than these sizes shall be permitted; wheat flour, per barrel, 196 pounds; per half barrel, 98 pounds; per quarter barrel sack, 48 pounds; per one-eighth barrel sack, 24 pounds; per one-sixteenth barrel sack, 12 pounds; per one-thirty-second barrel sack, 6 pounds; corn meal, per bushel sack, 48 pounds; per half bushel sack, 24 pounds; per quarter bushel sack, 12 pounds; per one-eighth bushel sack, 6 pounds; and per one-sixteenth bushel sack, 3 pounds. Nothing in this article shall be construed to prohibit the sale in other sized packages, of flour prepared for special purposes.

Sec. 13. (**Chap. 235, Laws 1917**) **Measurements of hay in stack.**—Unless otherwise agreed to between the contracting parties the following shall constitute the legal method for measuring hay in the stack and determining the tonnage of same: The distance from the ground, against one side of the stack to the ground, against the other side of the stack, directly over and opposite, shall be taken in feet and inches; subtract from this measurement the average width of the stack and divide by two to obtain the average height of the stack; multiply the width by the height and the result so obtained by the average length of the stack, which give the cubic feet of hay in the stack.

Sec. 14. (**7525**) **Contracts—sales—construed.**—All contracts, sales or purchases hereafter made for work to be done, or for anything to be sold or delivered or done, by weight or by measure, within this state, shall be taken and construed in terms of and according to the standards of weights and measures adopted by this article, except where parties have agreed upon any other calculations or measurements; and all statements and representations of any kind referring to the weights or measures

of commodities sold or purchased, or exposed for sale, shall be understood in terms of the standards of weights or measures aforesaid.

Sec. 15. (7526) **Dry commodities—how sold.**—All dry commodities not otherwise specified in this article shall be sold only by standard weight, numerical count or linear or surface measure except where parties otherwise agree.

Sec. 16. (7527) **Berries—small fruit.**—All sales of blackberries, blueberries, cranberries, currants, gooseberries, raspberries, cherries, strawberries, and similar berries, also onion sets in package of one peck or less, may be sold by the quart, pint, or half pint, dry measure; and all berry boxes sold, used, or offered for sale, within the state shall be of an interior capacity of one quart, pint or half pint, dry measure. Any berry boxes, not conforming to this section shall be confiscated by the inspector.

Sec. 17. (7528) **Milk—cream—bottles—liquid commodities.**—All milk or cream that shall be sold in bottles shall be sold only in bottles containing half pints, pints, quarts, half gallons or gallons. All liquid commodities shall be sold only by standard liquid measure or standard weight, except where parties otherwise agree.

Sec. 18. (7529) **Butter packages.**—A print or package of butter shall contain sixteen ounces avoirdupois.

Sec. 19. (Chap. 141, 1915) **False weights and measures—penalty.**—A person who uses a weight, measure, balance or measuring device that is false and does not conform to the authorized standard for determining the quantity of any commodity or article of merchandise or sells or exposes for sale less than the quantity which he represents, or sells or offers for sale commodities in a manner contrary to law, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof, be fined in a sum of not less than five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. He shall also be liable to the injured party in double the amount of the property wrongfully taken or not given, to be recovered in any court of competent jurisdiction. The selling and delivery of any commodity or article of merchandise shall be *prima facie* evi-

dence of representations on the part of the vendor that the quantity sold and delivered was the quantity bought by the vendee. There shall be taken into consideration the usual and ordinary leakage, evaporation or waste that there may be from the time the package is filled by the vendor until the selling of the same; a slight variation from the stated weight, measure or quantity for individual packages is permissable, provided this variation is as often above as below the weight, measure or quantity stated.

Sec. 20. (Chap. 141, 1915) Proving weights and measures.

—The department of agriculture shall try and prove weights, measures, balances and other measuring devices, used in trade by any person, corporation or institution, and when the same are found or made to conform to the state standards, and otherwise fulfill such reasonable requirements as it shall make, it shall seal the same with a seal which it shall have and keep for that purpose. It shall at least once annually test all scales, weights and measures used in checking the receipts or disbursements or supplies in every institution for the maintenance of which moneys are appropriated by the legislature.

Sec. 21. (7536) County sealer of weights and measures.—

The county clerk of each county shall be the sealer of weights and measures for the county, and shall have the care and custody of the county standards. When not already provided he shall procure, when ordered by the county board, at the expense of the county, a full set of weights, measures, balances and measuring devices, which he shall cause to be tried, proved and sealed by the state standards under the direction of the department of agriculture. He shall maintain the standards and other apparatus under his charge in good order and repair and submit the same to the department of agriculture for verification when in the judgment of the department it seems necessary.

Sec. 22. (7537) County and local standards.—Sets of standards for county and local sealers, if procured, shall include the following weights, measures, and balances, and they shall be of a type approved for such use by the department of agriculture: One yard measure divided into feet and inches, and at least one of the inches divided into thirty seconds of an inch.

Dry capacity measures: One half bushel, one peck, one quart and one pint. Liquid capacity measures: One gallon, one quart, and one pint. Avoirdupois pound weights in the following number and denomination: One fifty-pound, one twenty-pound, two ten-pounds, one five-pound, two two-pound, and one one-pound. Avoirdupois ounce and fractional ounce weight in the following number and denomination. One eight-ounce, one four-ounce, one two-ounce, two one-ounce, one one-half ounce, one one-quarter ounce, one one-eighth ounce, and two one-sixteenth ounce. Twenty test weights each of fifty pounds for testing platform scales and other large scales, if the same are to be tested. One equal arm balance of capacity of fifty pounds to one-sixteenth of an ounce.

Sec. 23. (7538) **County—local sealers—inspectors—duties.**—The several county and local sealers shall try and prove all weights, measures, balances and measuring devices when requested to do so, and when the same are found or made to conform to the authorized standards they shall seal and mark such weights, measures, balances and measuring devices with a scale to be kept by them for that purpose. When any weight, measure, balance or measuring device is found by the department of agriculture to be false or untrue or not of an approved type, or not to conform to the standards, or which cannot be made to conform to the standards of the department of agriculture, the department shall condemn the same and mark it condemned in a conspicuous manner, and such condemnation mark shall not be removed or defaced except by authorization of the department of agriculture.

Sec. 24. (7539) **County clerk—neglect of duty.**—Any county clerk, who neglects to keep the standards under his charge in good order or repair, or who suffers any of them through his neglect to be lost, damaged or destroyed, or who fails to perform any of the duties imposed upon him herein, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to a fine of not less than ten dollars nor more than one hundred dollars.

Sec. 25. (7540) **County co-operation.**—Nothing in this article shall be construed to prevent two or more counties from combining in the use of one set of standards if agreed upon by

the county boards in the counties concerned, and approved by the written consent of the department of agriculture.

Sec. 26. (7544) **Municipal inspection.**—Any city or municipality in the state may establish a department of public inspection of weights and measures, and shall have power to appoint a sealer and deputies and fix their compensation, and to pass such ordinances, not in conflict with the state laws, as may be deemed necessary; and if a city or municipality shall establish such a department, it shall provide the sealer with suitable quarters, a set of standards as hereinbefore specified in this article, and all other equipment for the proper performance of his duties. All city and municipal standards shall be tried, proved and sealed under the direction of the department of agriculture, and shall be returned to it for verification at least once in every five years.

Sec. 27. (7545) **Immediate examinations.**—The county or local sealer who may have reason to believe that any weight, measure, balance or measuring device used in trade is inaccurate, or not according to the standard, shall have authority to make an immediate examination of the same and require that the same be tried and tested and conform to the standards herein required.

Sec. 28. (7547) **Compensation—fees—disposition.**—The department of agriculture shall receive fees as follows: For inspecting and sealing; railroad track scale, ten (\$10.00) dollars; each scale over twenty-one thousand pounds capacity not including railroad track scales, five (\$5.00) dollars; each scale over four thousand pounds capacity up to and including twenty-one thousand pounds capacity, two (\$2.00) dollars; each scale over five hundred pounds capacity up to and including four thousand pounds capacity, one (\$1.00) dollar; each scale over two hundred pounds up to and including five hundred pounds capacity, fifty cents (50c); each scale two hundred pounds capacity or less, twenty-five cents (25c); and for each automatic scale one (\$1.00) dollar, and shall be entitled to collect from the owner or custodian of such scales herein mentioned an amount sufficient to cover the cost of transporting all necessary test weights to and from the location of said scales. For sealing or marking each beam, ten (10c) cents; for sealing or marking measures of extension, ten (10c) cents per yard or fraction thereof, not

exceeding fifty (50c) cents for any one measure. For sealing or marking liquid or dry measures, ten (10c) cents for each measure. For sealing and marking each weight, five (5c) cents. He shall have a reasonable compensation for making weights and measures conform to the standards in his possession. The state sealer shall not require any fee from any county or city and all fees collected by the deputy state sealer or such part as is necessary shall be used in the proper enforcement of this act. The balance to be paid to the state treasurer and credited to the general fund. The inspection and sealing fees herein provided for shall be and constitute a lien on the weights, scales and measures inspected until said fees are paid and the deputy sealer may sue therefor in the name of the state.

Sec. 29. **(7548) Public Scales.**—Scales may be erected in the State of Nebraska for public use at public expense. In counties under township organization, a township may at the annual meeting provide for the erection and determine the location and number of scales for the township and levy a tax to pay for the same.

Sec. 30. **(7549) Weighmaster.**—When such scales are provided for, the township board shall appoint a weighmaster, upon petition of the electors living in the immediate vicinity of the scales so located, who shall, under oath, promise to perform the duties of his office faithfully and honestly and the weighmaster so appointed shall continue in office until removed by the township board or by resignation.

Sec. 31. **(7550) Scales—testing.**—The township board shall from time to time, as in their judgment seems necessary, test the scales as to their accuracy and properly adjust the same.

Sec. 32. **(7551) Disputes.**—Whenever disputes arise between two parties, within the limits of the township where such scales are located, over the first weighing of any articles, the same shall be weighed a second time on the public scales, and the weighmaster's receipt therefor shall be final.

Sec. 33. **(7552) Fees for weighing.**—The township board shall fix and regulate the fee or salary of the weighmaster and the fees if any for weighing.

Sec. 34. **(7553) Petitions for scales.**—Townships in coun-

ties under commission organization, desiring to adopt the provisions of the five next preceding sections, shall petition to the county board of such county, and where a majority of the electors so petition, the same shall be granted. All duties and powers imposed upon township officers by said sections where counties are under township organization shall be performed by the county board of counties under commission organization.

Sec. 35. **(7554) Size of brick.**—The standard size of brick sold in the State of Nebraska shall be eight and one-fourth inches long, four inches wide, and two and one-half inches thick.

Sec. 36. **(7555) Brick—selling.**—No person shall sell any brick of any other size than that specified in the next preceding section, without, at the time of the sale, notifying the purchaser, in writing, of the size of such brick.

Sec. 37. **Coal, coke and charcoal—rules for sale of.**—It shall be unlawful to sell or offer to sell in this state any coal, charcoal, or coke in any other manner than by weight. No person, firm or corporation shall deliver any coal, charcoal or coke, without each such delivery being accompanied by a delivery ticket and duplicate thereof, on each of which shall be in ink or other indelible substance, distinctly expressed in pounds, the gross weight of the load, the tare of the delivering vehicle, and the net amount in weight of coal, charcoal or coke contained in the cart, wagon or other vehicle used in such deliveries, with the name of the purchaser thereof and the name of the dealer from whom purchased. One of these tickets shall be surrendered by the person in charge of the load to the inspector upon demand, for his inspection, and a ticket or weight slip issued by the inspector, when the inspector desires to retain the original, shall be delivered to said purchaser of said coal, charcoal or coke, or his agent or representative at the time of the delivery of the fuel; and the other ticket shall be retained by the seller of the fuel. When the buyer carries away the purchase, a delivery ticket, showing the actual number of pounds delivered must be given to the purchaser at the time delivery is made. The deputy sealer or any of his assistants, or inspector, are hereby empowered to compel the party or parties having charge of such coal, charcoal or coke to bring same on demand to a scale designated by the said deputy sealer or his assistant or inspector and weighed

for the purpose of proving the true net weight of the article or commodity.

Sec. 38. **Automatic pay scales—license for.**—It shall be unlawful for any person, firm or corporation by himself, or as the officer, servant, agent, or employe of any person, firm or corporation to operate or use or display for use any scale or scales, known as money in the slot or automatic scale or scales or any weighing device, apparatus or machine, which is used or intended for use to determine the weight of any person or persons, where compensation is derived, or any public or custom scale for which a fee is charged or accepted for weighing, unless said scale or device is licensed by the deputy sealer. Upon payment of the license fee of three (\$3.00) dollars, the deputy sealer shall issue a metal license tag bearing the words "Licensed by the Deputy Sealer of Weights and Measures, Nebraska, No.....," each tag to be numbered consecutively and bear the year for which license is valid. The tag shall be displayed prominently on the front of the weighing device and the defacing or wrongful removal of such tag shall be deemed a misdemeanor. Absence of the license tag shall be prima facie evidence that the weighing device is being operated contrary to law. No license shall be issued until the annual fee of three (\$3.00) dollars is paid to the deputy sealer for each scale or weighing device operated or used. Any person desiring to secure said license shall make application therefor upon blank to be furnished by the deputy sealer. The deputy sealer may withhold or revoke any license for cause. All licenses issued under this Act shall expire December 31st, of each year.

Sec. 39. (7557) **Violation—penalty.**—Any person violating any of the provisions of the two next preceding sections shall, on conviction, be fined in any sum not less than one hundred dollars nor more than five hundred dollars.

ARTICLE XIX.

COMMERCIAL FERTILIZER

Section 1. **Labeling required—contents of label.**—That any person, firm or corporation, their agent or employe who shall offer, sell or expose for sale by sample or otherwise in the State

of Nebraska any commercial fertilizer or fertilizer material, the selling price of which is more than three dollars per ton, shall attach to each bag or package in a conspicuous place on the outside thereof or furnish to the purchasers of goods sold in bulk a plainly printed certificate giving the items as listed below and in the following order:

1. Number of pounds net in the package sold.
2. Brand name or trade-mark under which the package is sold.
3. Guaranteed chemical analysis stating the percentage of:
 - a. Available Nitrogen as ammonia (NH_3).
 - b. Available Phosphoric Acid (P_2O_5).
 - c. Potash (K_2O) soluble in distilled water.
4. A list of all materials used as ingredients.
5. Name of manufacturer, and location of principal office or state distributing office.

Sec. 2. **Samples furnished—license—fee.**—Before any commercial fertilizer or fertilizer material is sold or offered for sale, the manufacturer or party who causes it to be sold or offered for sale within the State of Nebraska shall furnish a two (2) pound sample to the department of agriculture and shall file in its office a certified copy of the certificate referred to in Section 1 of this article and shall pay to the department on or before May 1 of each year a license of twenty dollars for each brand of fertilizer offered for sale or sold within the State. Provided, that whenever the manufacturer or importer shall have paid the license fee herein required for any year, no other person shall be required to pay such license fee for that brand.

Sec. 3. **Powers of Department of Agriculture.**—The department shall enforce the provisions of this article and may publish annually a report of all analysis made and certificates filed. The department shall exercise in the enforcement of this article, all the authority and powers now granted under the food, drug, dairy and oil laws of the State of Nebraska. The department is hereby authorized to take for analysis a sample from any lot or package of commercial fertilizer in this state not exceeding two (2) pounds in weight.

Sec. 4. **Disposition of fees collected.**—All fees collected by the department in the enforcement of this article shall be paid to the state treasurer and credited to the department, and the fees in his fund and the funds provided for the department, or as much as may be necessary, shall be set aside for the enforcement of this article.

Sec. 5. **Violation—penalty.**—Any person, firm or corporation, their agent or employe who shall offer or expose for sale or sell any commercial fertilizer in the State of Nebraska without complying with the provisions of this article or who shall use an analysis regarding any commercial fertilizer which shall be false as to the constituents named in Section 1 of this article, or who shall obstruct or interfere with the department in the discharge of its duties shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars for each offense.

ARTICLE XX

TUBERCULAR LIVE STOCK

Section 1. **Acceptance of federal appropriation.**—Assent is hereby given to the provisions of an act of Congress entitled, "An Act making appropriations for the department of agriculture for the fiscal year ending June 30, 1919, approved October 1, 1918, and the good faith of this state is hereby pledged to provide sufficient funds in co-operation with and supplementary to payments to be made by the secretary of agriculture with respect to compensating the owner of tubercular cattle destroyed when in the discretion of said secretary of agriculture and the department of agriculture, it shall be necessary.

Sec. 2. **Bovine tuberculosis fund—appropriation.**—For the purpose of carrying out the provisions of this article there is hereby appropriated out of the general fund of the State of Nebraska the sum of \$75,000.00, or so much thereof as may be necessary. The funds herein appropriated shall be placed by the auditor of public accounts and the state treasurer to the credit of a fund to be known as the Bovine Tuberculosis Fund, and warrants not exceeding the amount herein appropriated shall

be drawn by the auditor upon certificates presented by the department of agriculture, and warrants so drawn shall be paid by the state treasurer.

Sec. 3. Testing cattle shipped into state.—Hereafter all cattle shipped into this state, except those shipped in for immediate slaughter, and all cattle shown at the Nebraska State Fair, may in the discretion of the department be tested for the disease known as tuberculosis under rules and regulations which the secretary of agriculture and the department of agriculture shall from time to time prescribe; provided, however, in addition to the above test said department, may order a retest within sixty days after the original test.

Sec. 4. Department to make rules, etc.—The department shall make necessary rules and regulations to carry into effect the purposes of this article, and any regulations so made shall be published in a newspaper, or in as many newspapers as said department may deem necessary, or they shall be posted in not less than five public places, and such publication shall be deemed legal notice to all persons.

Sec. 5. Power to prohibit arrival and departure of affected stock.—Authority is hereby given to the department to regulate or prohibit the arrival in or departure from the state, or any portion of the state, of any such exposed or affected animals, and at the cost of the owner or owners thereof to detain such animals found in violation of said regulations or prohibitions.

Sec. 6. Examination at owner's request.—Whenever any owner or owners of dairy or beef animals in this state believe that any of said animals owned by him are infected with the disease known as tuberculosis upon written request made to the department, said department may send its agent who shall be a duly licensed and experienced veterinarian to test the animal of said owner for the disease known as tuberculosis, at the expense of said state. If it appears necessary for the control or the eradication of such disease that any animal or animals found infected shall be destroyed, they may be killed and compensation shall be paid the owner thereof: Provided, however, that in no case shall payment by the State of Nebraska be more than twenty-five (\$25.00) dollars for any grade animal or more than

fifty (\$50.00) dollars for any pure bred animal. The maximum valuation herein provided shall be exclusive of any compensation paid or reimbursement made to the owner or keeper of said tuberculous cattle by the secretary of agriculture or its agent for the destruction thereof as contemplated by said act of Congress referred to in Section 1 of this article. No payment by way of compensation shall be made by the State of Nebraska unless the owner has complied with all lawful quarantine regulations, and that no payment made by the state as compensation for any tuberculous animal destroyed shall exceed one-third of the difference between the appraised value of such animal and the value of the salvage thereof. No compensation will be paid any owner of tubercular cattle whose entire herd is not under Federal and State supervision for the eradication of tuberculosis.

Sec. 7. Appraisal of animals before killing.—Before any animals infected with tuberculosis shall be ordered killed, they shall be appraised by a representative of the bureau of animal husbandry of the United States department of agriculture, and a representative of the state. If the representative of the department of agriculture and the representative of the state shall disagree as to the amount of the appraisal, or if the owner refuses to accept the appraised value, the animal shall be appraised in accordance with the laws and regulations of the state in which animals are destroyed under Section 152, Revised Statutes of Nebraska for 1913, as amended by Section 1, Chapter 11, Session Laws of Nebraska for 1915. In the appraisal of tuberculous cattle, due consideration shall be given to their breeding value as well as to their dairy or meat value.

Sec. 8. Report of liens to be made before payment for cattle destroyed.—When any dairy or beef animals have been destroyed pursuant to this act, the agent of the department of agriculture in charge shall take reasonable precautions to determine prior to his approval of vouchers in which compensation therefor is claimed, who is the owner thereof, and whether there are any mortgage or other liens outstanding against said animal. If it appears there are outstanding liens, a full report regarding same shall be made, and shall accompany the voucher. Every such report shall include a description of the lien, the name of the person or persons having possession of the documentary evidence

thereof and a statement showing what arrangements, if any, have been made to discharge the lien outstanding against the animals destroyed, of which the agent of the department in charge may have knowledge.

ARTICLE XXI.

PUBLICITY

Section 1. **Information furnished.**—The department of agriculture shall serve as an information bureau in reference to the State's resources, industries and development and shall assemble data regarding the resources and industries of the state to the physical, economical and social conditions existing therein.

The department of agriculture shall publish the facts ascertained and by means of publicity, promote the development of the resources of the state to the welfare of its inhabitants.

TITLE IV.

THE DEPARTMENT OF LABOR

ARTICLE 1.

GENERAL POWERS

Section 1. **(See R. S., Ch. 3554.) Powers specified.**—The governor, through the agency of the department of labor created by this act, shall have the power:

1. To foster, promote and develop the welfare of wage earners;
2. To improve working conditions;
3. To advance opportunities for profitable employment;
4. To collect, collate, assort, systematize, and report statistical details relating to all departments of labor, especially in its relation to commercial, industrial, social, economic and educa-

tional conditions, and to the permanent prosperity of the manufacturing and productive industries;

5. To require and diffuse useful information on subjects connected with labor in the most general and comprehensive sense of the word;

6. To acquire and diffuse among the people useful information concerning the means of promoting the material, social, intellectual and moral prosperity of laboring men and women;

7. To acquire and diffuse information as to the conditions of employment and such other facts as may be deemed of value to the industrial interests of the state;

8. To acquire and diffuse information in relation to the prevention of accidents, occupational disease and other related subjects;

9. To administer and enforce the workmen's compensation laws or employers' liability acts of the state, and for that purpose the secretary of the department of labor shall be the deputy commissioner of labor and compensation commissioner, and the duty hereby imposed upon him, as such, of executing all of the provisions of Article VIII., Chapter 35, Revised Statutes of Nebraska for the year 1913, and any and all act or acts amendatory thereof.

ARTICLE II.

EMPLOYMENT REGULATIONS

Section 1. **Governor to enforce law.**—In addition to the general powers conferred upon the governor in the preceding article, he is hereby invested with the power and charged with the duty of enforcing, through the agency of the department of labor created by this act, all of the provisions contained in this article and all provisions which may be hereafter enacted as amendatory thereof.

Sec. 2. (3558) **Free employment bureau.**—The department of labor shall establish and maintain in its office and in connection therewith, a free public employment bureau.

Sec. 3. (3562) **Duty of employers to supply seats.**—It shall be the duty of every agent, proprietor, superintendent or employer of female help within the state of Nebraska to provide a

chair, stool or seat for each and every such employee, upon which their female workers shall be allowed to rest when their duties will permit, or when said position does not interfere with the faithful discharge of their duties.

Sec. 4. (3563) **Same—penalty for not providing.**—Any agent, proprietor, superintendent or employer in the state of Nebraska failing to comply with the requirements of the preceding section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than ten (\$10.00) dollars nor more than two hundred (\$200.00) dollars and stand committed until such fine be paid, and shall also be liable to an action for damages to the employee whose health has been injured by such neglect.

Sec. 5. (Ch. 71, 1915) **Hours of employment of females.**—In metropolitan cities and cities of the first class no female shall be employed in any manufacturing, mechanical or mercantile establishment, laundry, hotel or restaurant, office or by any public service corporation in this state more than nine hours during any one day or more than fifty-four hours in one week. The hours of each day may be so arranged as to permit the employment of such female at any time from six o'clock A. M. to ten o'clock P. M., but in no case shall such employment exceed nine hours in any one day, nor shall such female be employed except by public service corporations, between the hours of 10:00 P. M. and 6:00 A. M.

Sec. 6. (3565) **Hours required posted up.**—Every such employer shall post, in a conspicuous place in every room where such females are employed, a printed notice stating the number of hours of work required each day, the hours of commencing and stopping, the time allowed for meals. Printed forms for such notices shall be furnished by the department.

Sec. 7. (R. S. 3567) **Penalty.**—Any employer, overseer, superintendent or other agent of any such employer who shall violate any of the provisions of the next two preceding sections, shall upon conviction, be fined for each offense in a sum not less than twenty (\$20.00) dollars nor more than fifty (\$50.00) dollars.

Sec. 8. (R. S. 3668) **Labor unions adopt trade marks.**—It

shall be lawful for associations and unions of working men to adopt, for their protection, labels, trade marks, and other forms of advertisement, announcing that goods manufactured by members of such association or unions are manufactured by them.

Sec. 9. (3569) Labels—record—certificate.—Every person, association or union of working men or others who have adopted or who shall adopt for their protection any label, trade mark or form of advertisement, may file the same for record in the office of the department of labor. The department shall thereupon deliver to such person, association or union a duly attested certificate of the record of the same for which it shall receive a fee of two dollars. Such certificate shall in all actions and prosecutions, under the following three sections, be sufficient proof of the adoption of such label, trade mark or form of advertisement, and the right of such person, association or union to adopt the same.

Sec. 10. (3570) Protection—injunction.—Every person, association or union adopting a label, trade-mark or form of advertisement, as specified in the preceding section, may enjoin the manufacture, use, display or sale of any counterfeit or imitation thereof, and recover any damages resulting from such wrongful manufacture, use, display or sale, and the profits derived therefrom together with a reasonable attorney's fee to be fixed by the court; and the court shall also order all such counterfeits or imitations destroyed.

Sec. 11. (3571) Unauthorized use—penalty.—No person or corporation shall imitate any label, trade-mark or form of advertisement adopted as provided in the second preceding section, or knowingly use any counterfeit or imitation thereof, or use or display such genuine label, trade-mark or form of advertisement, or the name or seal of such person, union or association, or of any officer thereof unless authorized to do so, or in any unauthorized manner. Any person violating any provisions of this section shall upon conviction be imprisoned in the county jail not more than thirty days, or be fined not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars.

Sec. 12. (3572) Laborer's service letter.—Whenever any employee of any public service corporation or of a contractor

who works for such corporation or contractor doing business in the state of Nebraska shall be discharged or voluntarily quits the service of his employer, it shall be the duty of the superintendent or manager, or contractor, upon the request of such employee, to issue to such employee a service letter, setting forth the nature of the service rendered by such employee to such corporation, or contractor, and the duration thereof and truly stating the cause for which such employee was discharged or quit such service.

Sec. 13. **(3573) Same—form.**—Such letter shall be written in its entirety upon a plain sheet of white paper to be selected by such employee. No printed blank shall be used, and if such letter be written on a typewriter, it shall be signed with a pen and black ink, and immediately beneath the signature shall be affixed the official stamp or seal of such superintendent, manager or other official of such corporation or contractor, in an upright position. There shall be no figures, words or letters used upon such piece of paper except such as are plainly essential either in the date line or address or the body of the letter or the signature and seal or stamp thereof, and no such letter shall have any picture, imprint, character, design, device, impression or mark, either in the body or the face or back thereof.

Sec. 14. **(3574) Penalty.**—If any superintendent, manager or contractor shall fail or refuse to issue such letter to such employees (on) request, or wilfully fail, or negligently refuse to give such letter, or fail to state the facts therein correctly, he shall, upon conviction, be punished by a fine of not less than one hundred (\$100.00) dollars, nor more than five hundred (\$500.00) dollars, for each offense, or by imprisonment in the county jail for a period of not less than one month and not more than one year.

ARTICLE III.

CHILD LABOR.

Section 1. **Child under fourteen not to work.**—No child under fourteen years of age shall be employed, permitted or suffered to work in, or in connection with any theatre, concert hall, or place of amusement, or in any mercantile institution, store,

office, hotel, laundry, manufacturing establishment, bowling alley, passenger or freight elevator, factory or work shop, or as a messenger or driver therefor within this state. No person, firm or corporation shall employ any child under fourteen years of age in any business service whatever during the hours when the public schools of the school district in which the child resides are in session.

Sec. 2. (2576) Employment certificate for child over fourteen.—No child between fourteen and sixteen years of age shall be employed, permitted or suffered to work in any theatre, concert hall or place of amusement, or in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, bowling alley, passenger or freight elevator, factory or workshop, or as a messenger or driver thereof, within this state, unless the person or corporation employing him procures and keeps on file and accessible to the truant officers of the city, the department of labor, and its assistants and employees, an employment certificate as hereinafter prescribed and keeps two competent lists of all such children employed therein, one on file and one conspicuously posted near the principal entrance of the building in which such children are employed. Upon the termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall be forthwith transmitted by the employer to the city or county superintendent of schools of the county in which the child resides, and shall be turned over to the child named therein upon demand. Any truant officer, the department of labor or its assistants and employees may make demand on any employer in whose place of business a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this section, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such place of business. The same evidence of the age of such child may be required from such employer as is required on the issuance of an employment certificate as hereinafter provided, and the employer, furnishing such evidence shall not be required to furnish any further evidence of the age of the child. In case such employer shall fail

to produce and deliver to the truant officer or the secretary of labor within ten days after demand for the same, such evidence of the age of any child as may be required of him under the provisions of this article and shall thereafter continue to employ such child or permit or suffer such child to work in such place of business, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this section, that such child is under sixteen years of age and is unlawfully employed.

Sec. 3. (3577) Employment certificate approved by school superintendent.—An employment certificate shall be approved only by the superintendent of schools of the school corporation in which the child resides, or by a person authorized by him in writing, or where there is no superintendent of schools, by a person authorized by the school district officers; Provided, no school district officer or other person authorized as aforesaid shall have authority to approve such certificate, for any child then in, or about to enter, his own employment, or the employment of a firm or corporation of which he is a member, officer or employee, or in whose business he is interested. The officer or person approving such certificate shall have authority to administer the oath provided for therein, or in any investigation or examination necessary for the approval thereof. No fee shall be charged for approving any such certificate nor for administering any oath or rendering any services therein in respect thereto. The board of directors of such school corporation shall establish and maintain proper records where copies of all such certificates and all documents connected therewith shall be filed and preserved, and shall provide the necessary clerical services for carrying out the provisions of this article.

Sec. 4. (3578) Employment certificate—how issued.—The person authorized to issue an employment certificate shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed; the school record of such child, properly filled out and signed as provided in this article showing the child has completed the work of the eighth grade of the public schools, or its equivalent, or is regularly attending night school in compliance with this article; a passport

or duly attested transcript of the certificate of birth or baptism, or other religious or official record showing the date and place of birth of such child. A duly attested transcript of the birth certificate filed according to law with a register of vital statistics, or other officer charged with the duty of recording births, shall be conclusive evidence of the age of such child. The affidavit of the parent, or guardian, or custodian of a child which shall be required, however, only in case none of the documents mentioned above can be produced and filed, showing the place and date of birth of such child, which affidavit must be taken before the officer issuing the employment certificate. Such employment certificate shall not be issued until such child has personally appeared before and been examined by, the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that, in his opinion, the child is fourteen years of age, or upwards, and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In doubtful cases such physical fitness shall be determined by a physician provided by the department of labor. Whenever the person authorized to issue the employment certificate is in doubt about the age of a child, he may require the party or parties making application for the certificate to appear before the judge of the juvenile court, or the county judge where the question of the age of the child shall be determined and the judgment of the court shall be final and binding upon the person issuing the certificate. Notice of the hearing before the court shall be given to some one of the persons authorized to demand inspection of employment certificates. Every employment certificate shall be signed in the presence of the officer issuing the same by the child in whose name it is issued.

Sec. 5. (3579) Statement in certificate.—Such certificate shall state the date and place of birth of such child and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child and that the papers required by the preceding section have been duly examined, approved and filed, and that the child named in such certificate

has appeared before the officer signing the certificate and been examined.

Sec. 6. **(3580) School record furnished.**—The school record shall be signed by the teacher and principal of the school which such child has attended and shall be furnished on demand to a child entitled thereto. It shall contain a statement certifying that the child has regularly attended the public schools, or schools equivalent thereto or parochial schools for not less than three-fourths of the school year prior to his arriving at the age of fourteen years, or during the year prior to applying for such school record, and is able to read and write simple sentences in the English language. It shall also state the amount of work completed by such child, measured by the grade of the public day schools in the city or county. Such school record shall also give the age and residence of the child as shown on the records of the school, and the name of its parent or guardian or custodian.

Sec. 7. **(3581) School officers furnish duplicate certificates.**—The superintendent of public schools in all cities and towns having a population of more than one thousand (1000) according to the last official census, and the presiding officer of all other school boards shall furnish a duplicate copy of all certificates issued under the provisions of this article to the department of labor. The duplicate certificates as to form are set forth in Section 3593 of this article, and must be filed with the department of labor at the time of the issuance of the original certificate.

Sec. 8. **(3582) School attendance required.**—Regular attendance of a child at any public evening school, maintained in any city or village where instruction is given not less than twenty weeks each year, and three evenings each week, and two hours each evening, shall authorize the issuance of a certificate of employment where the schooling certificate fails to show that the child has completed the work of the eighth grade, if the schooling certificate and all other certificates are otherwise is (in) due form, and the applicant further produces a certificate from the superintendent or principal of such public evening school, showing the regular attendance of such child at such evening school, and if the child employed under such certificate shall furnish to his employer a weekly certificate showing regular attendance each week while the evening school is in session. Whoever em-

plays a child in violation of the provisions of this article shall, on conviction, be fined not more than fifty (\$50.00) dollars for each offense. A parent, guardian or custodian who permits a child under his control to be employed in violation of the provisions of this article shall, on conviction, be fined not more than twenty (\$20.00) dollars.

Sec. 9. (3583) **Form of age and schooling certificate.**—The age and schooling certificate provided for herein shall be made out upon blank forms furnished in triplicate by the department and shall be in the following form:

SCHOOL ATTENDANCE CERTIFICATE

....., Nebraska,
(Name of School) (City or Town)
....., 19.....
(Date)

This certifies that.....
(Name of child)
has completed the work of the.....th grade, can read and write
legibly simple sentences in the English language.

This also certifies that according to the records of this school
and in my belief, the.....was
(Name of child)
born at.....in.....county.
(City or town)
State of.....on the.....and is
(Date)
now.....years and.....months old, and has attended
said school within the past twelve months the following period

.....
(Name of parent or guardian) (Residence)
(Signature)
Teacher.
(Signature)
Principal.

AGE AND SCHOOLING CERTIFICATE.

....., Nebraska, ... 19.....
(City or town) (Date)
This certifies that I am the.....
(Father, mother, guardian or custodian)
of.....and that.....was born
(Name of child)

at _____ in _____ County, State of _____
_____, on the _____ and
is now _____ years _____ months old.

(Signature of father, mother, guardian or custodian.)
_____, Nebraska, _____, 19_____
(Name of city or town) (Date)

There personally appeared before me the above named _____
_____ and being sworn testified that
(Name of person signing)
the foregoing certificate by _____ signed is true to the
(him or her)
best of _____ knowledge or belief.
(his or her)

I hereby approve the foregoing certificate of _____
(Name of child)
_____, height _____ feet, _____ inches,
weight _____ pounds, _____ ounces, complexion _____
_____, hair _____, eyes _____
(fair or dark) (color) (color)
having no sufficient reason to doubt that _____ is of the
(he or she)
age herein certified. I hereby certify that _____
(he or she can, cannot)

read at sight and _____ write legibly simple sentences in the
English language, that said child has appeared before me and been
personally examined by me; that all certificates and papers required
by law have, in due form, been presented to, and approved by me, and
the same have been placed on file.

(In case the child is attending school insert here the following:)

I further certify that _____ is regularly attending the
(he or she)

(Name of School)

This certificate shall continue in force only so long as the regular
attendance of said child at said school is certified weekly by a teacher
thereof.

This certificate belongs to _____
(Name of child)

and is to be surrendered to the superintendent of schools whenever
_____ leaves the service of the person, firm or corporation
(he or she)
holding the same as employer.

(Signature and official title of person authorized to approve
to approve and sign.)

Place employed..... Authority
for age..... Hours.....
Certificate valid until.....

EVENING SCHOOL ATTENDANCE CERTIFICATE.

This certifies that.....
(Name of child)
is registered in and regularly attends the.....
evening school. This also certifies that according to the records of my
school and in my belief.....
(Name of child)
was born at..... on the.....
(Name of city or town)
day of....., 19....., and is now..... old.
.....
(Name of parent or guardian.)
.....
(Signature of teacher.)
.....
(Signature of principal.)

Duplicate copies of such certificates shall be retained in all cases by the person or officer issuing the same and kept on file by the superintendent of schools or school district directors of the county in which the same are issued.

Sec. 10. (3584) **Limit of working hours.**—No person under the age of sixteen years shall be employed or suffered or permitted to work in any theater, concert hall or place of amusement, or in any mercantile institution, store, office, hotel, laundry, manufacturing establishment, packing house, bowling alley, passenger or freight elevator, factory, workshop, beet field or as a messenger or driver, more than forty-eight hours in any one week, nor more than eight hours in any one day, nor before the hour 6 o'clock in the morning, nor after the hour of 8 o'clock in the evening. Every employer shall post in a conspicuous place in every room where such children are employed a printed notice stating the hours required of them each day, the hours of commencing and stopping work, and the time allowed for meals. The printed form of such notice shall be furnished by the department of labor.

Sec. 11. (3585) **Penalty.**—Whoever employs a child under

sixteen years of age and whoever, having under his control a child under such age, permits such child to be employed in violation of this article shall for each offense be fined not more than fifty dollars; and whoever continues to employ any child in violation of either or any section of this article, after being notified by a truant officer, or by the department of labor or by its assistants or employees, shall for every day thereafter that such employment continues be fined not less than (\$5.00) dollars nor more than twenty (\$20.00) dollars. The failure of an employer of child labor to produce, upon request of a person authorized to demand the same, any employment certificate or list required by this article shall be prima facie evidence of the illegal employment of any child whose employment certificate is not produced or whose name is not listed. Any corporation or employer retaining employment certificates in violation of this article shall be fined ten (\$10.00) dollars. Every person authorized or required to sign any certificate or statement prescribed by this article, or who knowingly certifies or makes oath to any material false statement therein or who violates any of the provisions of this article, shall be fined not to exceed fifty (\$50.00) dollars. Every person, firm or corporation, agent or manager, superintendent or foreman of any person, firm or corporation who shall refuse admittance to any officer or person authorized to visit or inspect any premises or place of business under the provisions of this article and to produce all certificates and lists he may have, when demanded, after such person shall have announced his name and the office he holds and the purpose of his visit, or shall otherwise obstruct such officers in the performance of their duties as prescribed by this article, shall be guilty of a misdemeanor and, upon conviction, shall be fined in any sum not exceeding fifty (\$50.00) dollars, or be imprisoned not to exceed thirty days.

Sec. 12. **Evidence of unlawful employment.**—The presence of a child under sixteen years of age, apparently at work, in any of the places of business enumerated in this article shall be prima facie evidence of his employment therein. Truant officers shall visit the places of business enumerated in this article to ascertain whether any children are employed therein contrary to the provisions of this article, and they shall report any cases

of such illegal employment to the department of labor and to the county attorney.

Sec. 13. **Child not employed in place of danger.**—No child under the age of sixteen years shall be employed in any work which by reason of the nature of the work, or place of performance, is dangerous to life or limb, or in which its health may be injured or its morals may be depraved. Any parent, guardian, or other person, who, having under his control any child, causes or permits such child to work or be employed in violation of this section, shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty (\$50.00) dollars or be imprisoned not exceeding ten days.

ARTICLE IV.

HEALTH AND SAFETY REGULATIONS

Section 1. **(3588) Safe access—water closets.**—Every factory, mill, workshop, mercantile or mechanical establishment or other building where one or more persons are employed, shall be provided within reasonable access, with a sufficient number of water-closets, earth closets or privies for the reasonable use of the persons employed therein, and whenever male and female persons are employed as aforesaid together, water-closets, earth closets or privies separate and apart, shall be provided for the use of either sex, and plainly so designated, and no person shall be allowed to use such closet or privy assigned to the other sex. Such closet shall be properly enclosed and ventilated and at all times kept in a clean and sanitary condition. When the number employed is more than twenty of either sex, there shall be provided an additional closet for each sex up to the number of forty and above that number in the same ratio. The department of labor or any person authorized by the department may require such changes in the placing of such closets as the department may deem necessary and may require other changes which may serve the best interest of morals and sanitation.

Sec. 2. **(3589) Dressing rooms.**—In factories, mills or workshops, mercantile or mechanical establishments or other places where the labor performed by the operator is of such a character

that it becomes necessary to change the clothing, wholly or in part, before leaving the building at the close of the day's work, separate dressing rooms shall be provided for females whenever so required by the department of labor. It shall be the duty of every occupant, whether owner or lessee of any such premises used as specified by this article, to make all the changes and additions thereto. In case such changes are made upon the order of the department of labor, to the lessee of the premises, the lessee may at any time within thirty days after the completion thereof, bring an action against any person or corporation or partnership having interest in such premises, and may recover such proportion of expenses of making such changes and additions as the court adjudges should justly and equitably be borne by such defendant.

Sec. 3. (3590) Pure air.—If in any of the aforesaid places, any process is carried on by which dust or fumes are caused, which may be inhaled by the persons employed therein, or if the air should become exhausted or impure, there shall be provided a fan or other such mechanical device as will substantially carry away all such dust or fumes or other impurities, subject to the approval of the department of labor.

Sec. 4. (3591) Clean of fumes of effluvia.—All of the aforesaid places shall be kept clean and free from effluvia arising from any drain, privy or nuisance, and shall be ventilated and kept in a sanitary condition. The department of labor or any person authorized by the department may require such changes or additions to be made in any of the aforesaid places as will promote the best measures of sanitation.

Sec. 5. (3592) Protection from dust.—All persons, companies or corporations operating any factory or workshop where grinding wheels, or grinding machines, emery wheels or emery belts of any description are used, either solid emery, leather covered, felt, canvas, linen, paper, cotton or wheels or belts rolled or coated with emery or carborundum or cotton wheels used as buffs, shall, when deemed necessary by the department of labor, provide such wheels or belts with blowers or similar apparatus, which shall be placed over, beside or under such wheels or belts in such manner as to protect the person or persons using the

same from particles of dust produced and caused thereby, and to carry away the dust arising from or thrown off by such wheels or belt while in operation directly to the outside of the building or to some receptacle placed so as to receive and confine such dust; Provided, grinding machines upon which water is used at the point of grinding contact and other wheels used for tool grinding shall be exempt from the provisions of this article.

Sec. 6. (3593) Defective wheels or grindstones.—No emery wheels or grindstones in any factory, mill or workshop, shall be used when known to the person using the same to be cracked or otherwise defective, nor operated at a greater speed than indicated or guaranteed by the manufacturer of such emery wheel or grindstone.

Sec. 7. (3594) Hoods for grinding wheels.—Each and every emery wheel and grindstone shall be fitted with a sheet or cast iron hood or hopper, of such form so adjusted that the dust or refuse therefrom will fall or be thrown into such hood or hopper by centrifugal force, and be carried off by the current of air into a suction pipe.

Sec. 8. (3595) Suction pipes.—Every such wheel six inches or less in diameter shall be provided with a three-inch suction pipe; wheels six inches to twenty-four inches in diameter, with four inch suction pipe; wheels from twenty-four inches to thirty-six inches in diameter with five-inch suction pipe; and every wheel exceeding thirty-six inches in diameter shall be provided with a suction pipe not less than six inches in diameter. The suction pipe from each wheel shall be of full size to its terminus, and a suction pipe to which smaller pipes are attached shall, in its capacity, be equal to the combined capacities of all smaller pipes attached thereto, and the discharge pipe shall be of as large capacity as, or larger capacity than, the combined capacities of all the suction pipes.

Section 9. (3597) Belting, gearing, etc., protected.—Every person operating a plant where machinery is used, shall provide such guards, boxing, screens or other appliances as will protect employees against injury from belting, shafting, gearing, elevators, drums, saws, cogs, electric currents, molten metal or hot liquid. He shall also furnish and supply belt shifters which can

be operated from the floor. All exposed cogs or gears shall be enclosed in metal casings or woven wire screens; protruding set screws in collars and couplings of shaftings or other revolving machinery shall be countersunk or covered with metal boxing; pulleys, belts and projections of or from ends of shaftings shall be protected by boxing or inclosing with metal or other suitable material. Belts shall not rest on shafting in motion, but rest hooks shall be provided to hold belting free therefrom. Roll guards shall be placed on roll feed machines fed by hand at the point where the material is fed and a device for instantly stopping the machine by the hand or foot shall also be provided within reach of the operator when operating the machine.

Sec. 10. **Screens about revolving machinery.**—A metal or other suitable screen shall be placed around each laundry extractor or other exposed high speed revolving machinery.

Sec. 11. **Wood cutting tools,—protecting against.**—Wood planers, wood shapers, swing saws, equalizing saws, circular heading jointers, wood polishers, buzz planers, lathe bolters and all similar machinery shall be equipped with requisite safety appliances.

Sec. 12. **Safety appliances—approval.**—All safety appliances prescribed by this article shall be subject to the approval of the department of labor.

Sec. 13. **Protection against electric current.**—Signs or indicating lamps shall be placed at all switches, in electric light and power plants or other places where high pressure currents are used, to show whether the current is on or off the circuit. When current is turned off a circuit for repair, the switch shall first be tagged, the tag bearing the name of the person for whom it is turned off. The tag shall not be removed or the current turned on until the person for whom it was tagged shall notify the operator that his work has ceased.

Sec. 14. **Safety devices for elevators.**—Every elevator, whether freight or passenger, shall be equipped with a speed governor safety device and with gates or doors to be not less than five feet in height, and all freight elevators shall be equipped with a signal or gong.

Sec. 15. **Protection of boilers.**—Where a number of boilers

deliver to a common steam main, they shall be equipped with a shut off or throttle valve for each boiler to take it out of service for repairs and inspection necessitating the entry therein of workmen. A metal shield shall be constructed covering the hand wheel of the valve, hinging in the center and containing hasp and hook. The shield shall be painted red and marked with the words, "Man in Boiler." The workman shall be allowed to retain key in his possession while in said boiler.

Sec. 16. **Fire-escapes and fire protection.**—Every factory or other institution, more than two stories in height, shall be equipped with outside fireproof iron stairways, chutes or toboggans; and one automatic fire escape for every fifteen persons working or congregating therein at any time, who, for any reason, are unable to reach or use the outside fireproof stairways, chutes or toboggans.

Sec. 17. **(3598) Accidents reported.**—Every person operating a plant where machinery is used, shall report in writing to the department of labor all fatal accidents within forty-eight hours after their occurrence, and all other accidents within two weeks after their occurrence. Such report shall state fully the cause of the accidents, the nature and extent of the injuries and the probable loss of time which will result therefrom.

Sec. 18. **Action for damages.**—Every person operating a plant where machinery is used who shall violate any of the provisions of this article, shall be liable in damages to any person injured, as a result thereof, or to the heirs of any person who shall have died as a result thereof.

Sec. 19. **Assumption of risk.**—The continuance by any person in the employ of any such operator shall not be deemed an assumption of the risk of such employment.

Sec. 20. **Violation, penalty.**—Every person who shall violate any of the provisions of this article shall be guilty of a misdemeanor and shall on conviction thereof, be fined in any sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars.

Sec. 21. **(3602) Scaffolds—ladders have safety rail.**—All scaffolds, hoists, cranes, stays, ladders, supports or other mechanical contrivances used in the erection, repairing, alteration, re-

removal or painting of any house, building, bridge, viaduct or other structure, shall be erected and constructed in a safe, suitable and proper manner. Scaffolding or staging, swung or suspended from an overhead support and more than twenty feet from the ground floor, shall have, where practicable, a safety rail properly bolted, secured and braced, raising at least thirty-four inches above the floor or main portion of such scaffolding or staging, and extending along the entire length of the outside and ends thereof and properly attached thereto, and such scaffolding and staging shall be so fastened as to prevent the same from swaying from the building or structure.

Sec. 22. **(3603) Floor capacity—construction.**—If in any house, building or structure in process of erection or construction except a private barn, or a private house, the distance between the enclosed walls is more than twenty-four feet in the clear, there shall be built, kept and maintained, proper intermediate supports for the joists, which supports shall be either brick walls or iron or steel columns, beams, trusses or girders. The floors in all such houses, buildings or structures shall be capable of bearing in all their parts, in addition to the weight of the floor construction, partitions and permanent fixtures and mechanisms that may be set upon the same a live load of fifty pounds for every square foot of floor surface.

Sec. 23. **(3604) Placard stating floor capacity.**—The owner of every house, building or structure, except a private barn or a private house, shall affix and display conspicuously on each floor of such building during construction, a placard, stating the load per square foot of floor surface which may, with safety, be applied to the particular floor during construction; or if the strength of different parts of any floor varies, then there shall be placards for each varying part of such floor. It shall be unlawful to load any such floors or any part thereof, to a greater extent than the load indicated on the placard, and all such placards shall be verified and approved by the department of labor, or other proper authority in the city, or village charged with the enforcement of building laws.

Sec. 24. **(3605) Scaffolding ladders unsafe.**—Whenever it shall come to the notice of the department of labor or the local authority in any city or village of this state, charged with the

duty of enforcing the building laws that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or ropes of any swinging or stationary scaffolding, platform or other similar device, used in the construction, alteration, removing, repairing, cleaning or painting of buildings, bridges or viaducts within this state are unsafe, or liable to prove dangerous to the life or limb of any person, the department of labor or such local authority or authorities, shall immediately cause an inspection to be made of such scaffolding, platform or device, or the slings, hammocks, blocks, pulleys, stays, braces, ladders, iron or other parts connected therewith. If after examination, such scaffolding, platform or device, of any such parts, is found to be dangerous to the life or limb of any person, the department of labor or such local authority, shall at once notify the person responsible for its erection or maintenance, of such fact and warn him against the use, maintenance or operation thereof, and prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. Such notice may be served personally upon the person responsible for its erection or maintenance or by conspicuously affixing it to the scaffold, platform or other such device, or the part thereof declared to be unsafe. After such notice has been so served or affixed the person responsible therefor shall cease using and immediately remove such scaffolding, platform or other device or part thereof, and alter or strengthen it in such manner as to render it safe. The department of labor, or such local authority, whose duty it is, under the terms of this article, to examine or test any scaffolding, platform, or other device, or part thereof, required to be erected and maintained by this section, shall have free access at all reasonable hours to any building or structure or premises containing such scaffolding, platform or other similar device, or parts thereof, or where they may be in use. All swinging and stationary scaffolding, platforms or other devices shall be so constructed as to bear four times the maximum weight required to be dependent thereon, or placed thereon when in use, and such swing, scaffolding, platform, or other device shall not be so overloaded or crowded as to render the same unsafe or dangerous.

Sec. 25. (3606) Safety scaffolding or staging.—Any person employing or directing another to perform labor of any kind in

the erecting, altering, repairing or painting of any water pipe, stand pipe, tank, smoke stack, chimney, tower, steeple, pole, staff, dome, or cupola when the use of any scaffolding, staging, swing, hammock, support, temporary platform or other similar contrivance is required or used in the performance of such labor shall keep and maintain at all times, while such labor is being performed, and such mechanical device is in use or operation, a safe and proper scaffold, stay, support, other suitable device, not more than sixteen feet below such working scaffold, staging, swing, hammock, support or temporary platform, when such work is being performed at a height of thirty-two feet or more.

Sec. 26. (3607) **Arched floors—how constructed.**—All contractors and owners, when constructing buildings where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are fireproof material or brick work, shall complete the flooring or filling in as the building progresses, to within at least two tiers or beams below that on which the iron work is being erected. If the plans and specifications of such building do not require filling in between the beams of floors with brick or fireproof material, all contractors for carpenter work in the course of construction shall lay the under flooring thereof, or a safe temporary floor on each story as the building progresses to within at least two stories or floors below the story where the work is being performed. If the floor beams are of iron or steel the contractors for the iron or steel work of buildings in the course of construction or the owners of such buildings, shall thoroughly plank over the entire tier or (of) iron or steel beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work and for the raising and lowering of materials to be used in the construction of buildings, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts.

Sec. 27. (3608) **Elevating machines—hoisting apparatus—used in construction.**—If elevating machines or hoisting apparatus are used within a building in the course of construction for the purpose of lifting materials to be used in such construction, the contractors or owners shall cause the shafts or openings in

each floor to be enclosed or fenced in on all sides by a substantial barrier or railing at least eight feet in height. Any hoisting machines or engines used in such building construction shall, where practicable, be set up or placed on the ground, and where it is necessary in the construction of such building to place such hoisting machine or engine on some floor above the ground floor, such machine or engine must be properly secured and supported with a foundation capable of safely sustaining twice the weight of such machine or engine. If a building in course of construction is five stories or more in height, no material needed for such construction shall be hoisted or lifted over public streets or alleys unless such street or alley shall be barricaded from use by the public. The chief officer in any city or village charged with the enforcement of local building laws and ordinances, shall cooperate with the department of labor in enforcing the provisions of this article.

Sec. 28. (3609) System of signals for hoisting machinery.—If elevating or hoisting apparatus, operated or controlled by other than hand power, are used in the construction, alteration or removal of any building or other structure, a complete and adequate system of communication by means of signals shall be provided and maintained by the owner, contractor or subcontractor, during the use and operation of such elevating machines or hoisting apparatus.

Sec. 29. (2610) Architects or draftsmen comply with law.—All architects or draftsmen in preparing plans, specifications or drawings to be used in the erection, repairing, altering, or removing of any building or structure within the terms and provisions of this article, shall provide in such plans, specifications and drawings for all the permanent structural features or requirements specified in this article. Any person violating the provisions of this section shall upon conviction be fined not less than twenty-five (\$25.00) dollars nor more than two hundred (\$200.00) dollars for each offense.

Sec. 30. (3611) Violation, penalty.—Any person violating any of the provisions of this article, except the provisions of section 29, shall upon conviction thereof be fined not less than twenty-five (\$25.00) dollars nor more than five hundred (\$500.00)

dollars, or imprisoned for not less than three months nor more than two years, or both.

Sec. 31. (3612) **Assumption of risk.**—The continuance by any person in the employ of any such operator shall not be deemed an assumption of the risk of such employment.

ARTICLE V.

EMPLOYMENT AGENCIES

Section 1. **Terms defined.**—When used in this division the following terms are defined as herein specified: The term “person” means and includes any individual, company, society, association, corporation, manager, contractor, subcontractor or their agents or employes. The term “employment agency” means and includes the business of conducting, as owner, agent, manager, contractor, subcontractor, or in any other capacity an intelligence office, domestic and commercial employment agency, theatrical employment agency, bonding and reference agency, teachers’ employment agency, general employment bureau, shipping agency, or any other agency or office for the purpose of procuring or attempting to procure help or employment or engagements for persons seeking employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee or other valuable consideration is exacted or attempted to be collected, directly or indirectly, for such services, whether such business is conducted in a building or on the street or elsewhere.

The term “fee” means and includes any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting any employment agency of any kind under the provisions of this division. Such terms includes any excess of money received by any such person over what has been paid out by him for the transportation, transfer of baggage, or board and lodging for any applicant for employment; such term also includes the difference between the amount of money received by any such person who furnishes employes and the amount paid by him to such employes.

Sec. 2. **License required.**—No person, firm or corporation in this state shall open, operate or maintain a private employment agency for hire or for help without first obtaining a license for the same from the Department of Labor, and the license fee shall be fifty (\$50.00) dollars per annum, payable in advance on the first day of May of each year, and shall expire on the last day of April of each year. Every license shall contain a designation of the city, street and number of the building in which the licensed parties conduct said employment agency. In case of removal to another location during the period covered by such license, the department shall be at once notified and the license corrected accordingly. No such license shall be transferable.

Sec. 3. **Bond.**—The Department of Labor shall require with each application for a license a Surety bond in the penal sum of two thousand (\$2000.00) dollars to be approved by said department and conditioned that the obligor will not violate any of the duties, terms, conditions, provisions or requirements of this division. The Department of Labor is authorized to cause an action or actions to be brought on said bond in the name of the state for any violation of any of its conditions and may revoke, upon a full hearing, any license whenever in its judgment the party licensed shall have violated any of the provisions of this division.

Sec. 4. **Investigation and cancellation of license.**—In case of refusal of any licensee to comply with the lawful orders of the Department of Labor, the Department of Labor may cancel the license held by such person, firm or corporation. When such license shall be so cancelled it shall not be reissued to said person, firm or corporation for a period of six months from the date of said cancellation.

Sec. 5. **Prohibited advertising.**—No private employment agency shall print, publish or paint on any sign, window, or insert in any newspaper or publication a name similar to that of the Nebraska Free Employment Bureau.

Sec. 6. **Books required to be kept for inspection.**—It shall be the duty of every licensed agency to keep a register in which shall be entered the name and sex of every person for whom employment is secured, and the amount of fee charged. Such licensed

agency shall also enter into a register the name and address of every person for whom help or servants are secured. Such register shall at all reasonable hours be open to the inspection and examination of the Department of Labor, and a copy of such register shall be filed with the Department of Labor not later than the 10th day of each calendar month.

Sec. 7. **Receipts—forms—contents.**—Every licensed agency shall issue a receipt to each person securing employment or help showing the occupation, name and address of the applicant, and the amount of the fee charged for procuring the position and such receipt shall also show the wages to be paid to said person securing employment, together with the name and address of the employer and the name of the agency issuing such receipts; also the nature of the employment offered and if a strike or lock-out is known to exist the fact shall be stated.

Said receipt shall be made upon forms prescribed by the Department of Labor and the third copy to be retained by the agency issuing same. The carbon copy of each and every receipt issued shall be mailed to the Department of Labor as prescribed in Section 6.

Sec. 8. **Registration fee.**—A registration fee not to exceed two (\$2.00) dollars may be charged by such licensed agency when such agency shall be at actual expense in advertising such individual applicant, or in looking up the references of such applicant. In all such cases a complete record of such references shall be kept on file, which record shall, during all business hours, be opened for the inspection of the Department of Labor, and upon demand shall be subject to inspection and examination by the applicant. For such registration fee a receipt shall be given to said applicant for help or employment, giving name of such applicant, date of payment and character of position or help applied for. Said registration fee shall be returned to said applicants on demand, after thirty (30) days and within sixty (60) days from date of receipt, less the amount that has been actually expended by said licensed agency for said applicant, and an itemized account of such expenditures shall be presented to said applicant on request at the time of returning the unused portion of such registration fee, provided no position has been furnished by said licensed agency to and accepted by said applicant.

No licensee shall, as a condition to registering or obtaining employment for such applicant, require such applicant to subscribe to any publication or exact other fees, compensation or reward, other than the registration fee aforesaid, and a further fee, the amount of which shall be agreed upon between such applicant and the licensee, to be payable at such time as may be agreed upon in writing, but the further fee aforesaid shall not be received by such licensee before the applicant has been tendered a position by said licensed person. In the event that the position so tendered is not accepted by or given such applicant, the licensee shall refund all fees requested by said applicant, other than the registration fees aforesaid within three (3) days after demand is made therefor. No licensee shall send out any applicant for employment without having obtained a bona fide order therefor, and if it shall appear that no employment of the kind applied for existed at the place where said applicant was directed, said licensee shall refund to such applicant within five (5) days after demand, any sum paid by such applicant for transportation in going to and returning from said place and all fees paid by said applicant.

In addition to the receipt herein provided to be given for registration fees, it shall be the duty of the licensee to give to every applicant for employment from whom other fee or fees shall be received, an additional receipt, in which shall be stated the name of such applicant, the date and amount of such other fees; and to every applicant for help from whom other fee or fees shall be received, an additional receipt, stating the name and address of said applicant, the date and amount of such other fee or fees, and the kind of help to be provided. All receipts shall have printed on the back thereof, in the English language, the name and address of the Secretary of Labor.

Every such licensee shall give to every applicant for employment, a card or printed paper containing the name of the applicant, the name and address of such employment agency, and the written name and address of the person to whom the applicant is sent for employment.

If an employee furnished fails to remain one week in a situation, through no fault of the employer, then all fees paid or

pledged, in excess of the registration fee aforesaid, shall be refunded to the employer upon demand.

If the employment furnished the applicant does not continue more than one week, through no fault of the employe, then all fees paid or pledged, in excess of the registration fee aforesaid, shall be refunded to the employe upon demand.

Sec. 9. Fees when refunded.—The fee for procuring employment or help in all cases shall be clearly set out in the receipt as provided in Section 7. The receipt shall plainly show the amount of the fee and all commissions and expenses or compensations whatsoever to such licensed agency for procuring employment or help. In case the person paying such fee fails to obtain the employment specified and such failure shall not be the fault of such applicant for employment, such licensed agency shall repay the same to such person upon demand being made therefor; provided that in cases where the person seeking employment is sent beyond the limits of the city in which such employment agency operates, such licensed agency shall repay in addition to the above the actual expenses incurred by reason of failure to receive employment, in all cases when it shall appear that the employment agency made false representations.

Sec. 10. Division of fees with employer—penalty.—Any licensed agency, or agent thereof, who shall be guilty of dividing fees with any agent, superintendent, manager, foreman or other employee of any person, company, corporation or association, for whom employes are furnished, shall be guilty of a misdemeanor and shall be fined not less than fifty (\$50.00) dollars or be imprisoned in the county jail for a period not exceeding three (3) months at the discretion of the court.

Sec. 11. Unlawful acts.—No agency shall knowingly send or cause to be sent any female help or servant to any place of bad repute, house of ill fame, or assignation house, or to any house or place of amusement kept for immoral purposes. No such licensed agency shall publish or cause to be published any false information, make any false promise concerning or relating to work or employment to any one who shall register for employment and no licensed agency shall make any false entries in the register to be kept as herein provided.

Sec. 12. **Violation—penalty.**—Any person convicted of a violation of the provisions of this section not otherwise specifically provided for, shall be guilty of a misdemeanor and shall be fined not less than fifty (\$50.00) dollars nor more than one hundred (\$100.00) dollars for each offense or be imprisoned in the county jail for a period not to exceed three months or both such fine and imprisonment at the discretion of the court; provided, that any person or persons who shall send any female help or servant to any place of bad repute, house of ill fame or assignation house, or to any house or place of amusement kept for immoral purposes, shall be punished by imprisonment for not less than thirty days nor more than three months, and the license shall be permanently cancelled.

Sec. 13. **Employment defined.**—The term employment or work, whenever used in this division, shall be construed to mean manual or mechanical labor, clerical, domestic or professional service.

Sec. 14. **Employment agents defined.**—Any person, firm or corporation who, for hire or with a view to profit, shall undertake to secure employment for help or through the medium of cards, circulars or pamphlets of any nature whatsoever, or through the display of a sign or bulletin, offer to secure employment or help or give information as to where employment or help shall be secured, shall be deemed a private employment agency and shall be subject to the provisions of this division.

TITLE V.

DEPARTMENT OF TRADE AND COMMERCE.

ARTICLE I.

GENERAL POWERS

Section 1. **Department of trade and commerce—general powers.**—The governor, through the agency of the secretary of trade and commerce created by this act, is hereby vested with

the power to regulate, supervise, and shall have general control over trade and commerce of the state and in addition to such general powers herein conferred, he is hereby vested with the power and charged with the duty of enforcing, through the agency of the secretary of trade and commerce created by this act, all of the provisions contained in this title and all provisions which may be hereafter enacted as amendatory thereof.

The department of trade and commerce shall collect, collate, assort, systematize and report statistical details of the manufacturing industries and commerce of the state and shall acquire information and report upon the general conditions so far as production is concerned of the leading industries of the state.

ARTICLE II.

INSURANCE.

Section 1. (3137) **“Insurance” defined.**—Within the intent of this article, the business of apportioning and distributing losses arising from specified causes, among all those who apply and are accepted to receive the benefits of such service is public in character, and requires that all those having to do with it shall at all times be actuated by good faith in everything pertaining thereto; shall abstain from deceptive or misleading practices, and shall keep, observe and practice the principles of law and equity in all matters pertaining to such business. Upon the insurer, the insured and their representatives shall rest the burden of maintaining proper practices in said business.

“Insurance” is a contract whereby one party called the “insurer”, for a consideration undertakes to pay money or its equivalent, or to do an act valuable to another party called the “insured” or to his “beneficiary” upon the happening of the hazard or peril insured against, whereby the party insured or his beneficiary suffers loss or injury. (1913 p. 393.)

Sec. 2. (3138) **Terms defined.**—The terms “company”, “corporation” or “insurance company”, or “insurance corporation”, in this article, unless the context otherwise requires, includes all corporations, associations, partnerships or individuals engaged as insurers in the business of insurance.

“Domestic” designates those companies incorporated or formed in this state. “Foreign” designates those companies incorporated or formed under the laws of the United States or any other state in the United States, and “alien” designates those companies incorporated or formed under the laws of any country other than the United States.

“Admitted company” designates companies qualified and licensed to transact business under the provisions of this article. “Non-admitted companies” designates companies not licensed to transact business in this state under the provisions of this article.

“Unearned premiums”, and “net value of policies” severally mean the liability of an insurance company upon its insurance contracts, other than accrued claims, computed by rules of valuation established herein.

“Profits” of a mutual company means that portion of its cash funds not required for payment of losses and expenses, nor set apart for any purpose allowed by law.

“Agent” or “insurance agent” is a person, co-partnership, corporation, attorney, board or committee duly appointed and authorized by the insurance company, to solicit applications for insurance to be known as the soliciting agent, or to solicit applications and effect insurance in the name of the company, to be known as a recording or policy writing agent, and to discharge such other duties as may be vested in, or required of, the agent by the company.

“Broker” or “insurance broker” is any person, co-partnership or corporation, who for compensation, not being an appointed agent for the company in which insurance or re-insurance is effected, acts or aids in any manner in negotiating contracts for insurance or re-insurance or placing risks or effecting insurance or re-insurance for a party other than himself or itself.

“Adjuster” or “insurance adjuster” is a person, co-partnership or corporation who undertakes to ascertain and report the actual loss or damage to the subject matter of the insurance due to the hazard or peril insured against.

“Director” within the intent of this article means trustee.

“Insurable interest” is every interest in property or any relation thereto, or liability in respect thereof, of such a nature

that a contemplated peril might directly damnify the insured. "Insurable interest" in the matter of life and health insurance exists when the beneficiary, because of relationship, either pecuniary or from ties of blood or marriage, has reason to expect some benefit from the continuance of the life of the insured.

"Double Insurance" exists where the same party is insured by several insurers separately, in respect to the same subject and interest.

"Over-insurance" exists where a party having an insurable interest in property has insurance thereon against the same hazard or peril in excess of the actual value of his interest therein.

"Re-insurance" means a contract by which an insurer procures a third party to insure it against loss or liability by reason of such original insurance.

"Department" or "insurance department" shall mean "department of trade and commerce."

"Rebate" means anything of value or the making of an agreement, expressed or implied, that will directly or indirectly diminish any premium below the amount specified in the policy, but does not include the dividend or refund paid or allowed on participating policies, nor bonuses paid or allowed directly by any company upon non-participating policies which have been in force at least five years.

"Stock company" is one with a capital stock that charges a fixed premium and is required to maintain the reserve provided by this article.

"Mutual company" is one without capital stock that charges a fixed premium and is required to maintain the same reserve as a stock company.

"Assessment association" is one that meets its losses and expenses from assessment levied upon its members.

ARTICLE III.

POWERS.

Section 1. **(R. S. 3139 and 3144) Specific powers—certificate—cause examination.**—The department of trade and commerce shall have general supervision, control and regulation of insurance companies, associations and societies and the business of insurance in Nebraska, including companies in process of organization. It shall have power to make all needful rules and regulations for the purpose of carrying out the true spirit and meaning of this enactment and all laws relating to the business of insurance, and to that end, may authorize and empower an assistant or employee to do any and all things that it may do, and on its behalf, and it shall see that all laws respecting insurance companies, are faithfully executed. It shall issue all certificates and licenses as provided for herein. Before granting certificates of authority to any insurance company to issue policies or make contracts of insurance in this state, it shall be satisfied by such examination as it may cause to be made, or such evidence as it may require, that such company is duly qualified under the laws of this state to transact business herein. It shall require every domestic insurance company to keep its books, records, accounts and vouchers in such manner that it may readily verify its annual statement and ascertain whether the company is solvent and has complied with the law. It shall cause to be examined, each domestic company at least once every three years, and cause to be thoroughly inspected and examined its affairs to ascertain its true financial condition, its ability to meet and to fulfill its obligation, whether it has complied with the provisions of the law, and all other facts that may be required relating to its business, methods and management, and its dealings with its policy holders. Whenever it deems it advisable, it shall cause a complete audit of the books and accounts of the company to be made by a disinterested expert accountant. When it deems it prudent for the protection of policy holders in this state, it shall, in like manner, cause to be visited and examined any insurance company incorporated or organized in any other state or country applying for admission, or already admitted to do business in this state. The person making an examination re-

quired or provided by this action may require the company and its officers to exhibit its assets, books and papers, and shall have free access to all the books, records, accounts, vouchers, papers and files of such company which relate to its business; may compel by subpoena the attendance before it and examine under oath its directors, officers, employees and other persons relative to its affairs, transactions and conditions. Any person who shall fail, neglect, or refuse to obey such subpoena, or having obeyed such subpoena, shall refuse to be examined as a witness and give evidence concerning any and all matters relating to such investigation when so required, shall be liable to the same penalties as though such subpoena had been issued by, or such person had refused to give evidence in the district court having jurisdiction. Whenever any person shall fail, refuse or neglect to obey such subpoena, or to give evidence concerning any matter pertaining to such investigation, the person conducting such examination may forthwith report in writing such disobedience, and file such report and such subpoena with proof of service thereof in the district court of the county where such investigation is being had, if in session, and if not, then with any judge of such court; thereupon such court or judge shall forthwith cause such person so subpoenaed or refusing to give evidence to be brought before the court or judge and such court or judge shall thereupon impose like terms and penalties as though such person had been subpoenaed or had refused to testify or give evidence in any proceeding before such court or judge. Every person shall be obliged to attend as a witness at the place of such investigation when subpoenaed anywhere within the state, and shall be entitled to the same fees and mileage, if claimed, as a witness in the district court, which fees, mileage and actual expense, if any, necessarily incurred in securing the attendance of witnesses and their testimony, shall be itemized and charged against and be paid by the company so being examined.

Sec. 2. (3145) Impairment—notice and requisition.—Whenever it appears to the department of trade and commerce from any proper showing made to it, or from any examination made, that the capital stock of any domestic insurance company is impaired, or that its assets are insufficient to justify its continuance in business, it shall at once determine the amount of such im-

pairment or deficiency, and thereupon issue a written notice to the company requiring its stockholders to make good the amount of the impairment or deficiency with cash or investments authorized by this article, or to reduce its capital stock, not below statutory requirements, within ninety days from the service of the notice. If the amount of any such impairment or deficiency shall not be made good within the time specified in such notice, and proof thereof filed with the department of trade and commerce, the company shall be deemed insolvent, and shall be proceeded against as an insolvent company in the manner authorized and directed by this article. No reduction of stock shall be made, except upon the vote of the stockholders approved by at least two-thirds of the directors. A duly certified copy of the proceedings shall be filed in the office of the secretary of state, in the office of the county clerk of the county in which the principal office of the company is located, and in the office of the department of trade and commerce. The directors, after such reduction of capital, may require such stockholder to surrender his stock, and in lieu thereof may issue a new certificate for such number of shares as each shall be entitled to.

Sec. 3. (3146) Impairment—mutual company—notice and requirement.—Whenever it shall appear from any proper showing, or from any examination made, that the assets and resources of any domestic mutual insurance company are insufficient to justify its continuance in business, the department of trade and commerce shall promptly determine the amount of such deficiency and thereupon issue a written notice and requisition to the directors and officers of such company requiring them to make good the amount of such deficiency within ninety days from the service of such notice and requisition.

Such notice and requisition may be served by registered letter, having affixed the proper postage and directed to the company at its principal place of business in this state. Upon the service of such notice and requisition the directors and officers thereof shall forthwith cause such deficiency to be made good, and proof thereof to be filed in the office of the department of trade and commerce within the time specified in the notice and requisition, that the same has been made good. If such deficiency shall not be made good within the time specified in the notice

and requisition, and satisfactory proof thereof filed with the department of trade and commerce, such company shall be deemed insolvent, and shall be proceeded against as an insolvent company in the manner authorized and directed by this article.

Sec. 4. (3147) **Delinquent companies—proceedings—liquidation.**—I. Whenever any domestic company is insolvent, or has refused to submit its books, papers, accounts or affairs to the reasonable inspection and examination of the department of trade and commerce, or has neglected or refused to observe an order of the department of trade and commerce, to make good within the time prescribed by law, any deficiency, whenever the capital of a stock company, or the reserve of a mutual company, shall have become impaired, or it has by contract of re-insurance, or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to morge (merge) substantially its entire property or business in the property or business of any other company without first having obtained the written approval of the department of trade and commerce, or is found, after an examination, to be in such condition that its further transaction of business would be hazardous to its policy holders, or to its creditors, or to its stockholders, or to the public; or has wilfully violated its articles of incorporation or association or any law of this state, or whenever any trustee, director, manager or officer thereof has refused to be examined under oath touching its affairs, the department of trade and commerce may apply to the district court, or any judge thereof, in the county or judicial district in which the principal office of such company is located, for an order directing such company to show cause why the department of trade and commerce should not take possession of its property, records and effects and conduct or close its business, and for such other relief as the nature of the case and the interest of its policy holders, creditors, stockholders or the public may require.

2. On such application, or at any time thereafter, such court or judge may, in his discretion, issue an order restraining such company from the transaction of its business, or disposition of its property, records, and effects until the further order of the court. On the return of such order to show cause, and after a

full hearing, the court shall either deny the application or direct the department of trade and commerce forthwith to take possession of the property, records and effects, and conduct the business of such company, and retain such possession, and conduct the business until on the application of the department of trade and commerce, or of such company, it shall, after a like hearing, appear to the court that the cause of such order directing the department of trade and commerce to take possession has been removed, and that the company can properly resume possession of its property, records and effects, and the conduct of the business.

3. If, on a like application and order to show cause, and after a full hearing, the court shall order the liquidation of the business of such company, such liquidation shall be made by and under the direction of the department of trade and commerce, which may deal with the property, records, effects and business of such company in the name of the department of trade and commerce or in the name of the company, as the court may direct and it shall be vested by operation of law with title to all the property effects, contracts and rights of action of such company as of the date of the order so directing it to liquidate. The filing or recording of such order in the office of the register of deeds in any county where property is located in the state shall impart the same notice that a deed, bill of sale, or other evidence of title, duly filed or recorded by such company would have imparted.

4. For the purpose of this section, the department of trade and commerce shall have power to appoint one or more special employees as its assistant, or assistants, and to employ such counsel and clerks as may be deemed necessary to give each of such persons such powers to assist the department of trade and commerce as the department of trade and commerce may consider proper. The compensation of such assistants, counsel and clerks, and all expenses of taking possession of and conducting the business of liquidating any such company, shall be fixed by the department of trade and commerce, subject to the approval of the court, and shall on the certificate of the department of trade and commerce, be paid out of the funds or assets of such company.

5. For the purpose of this section the department of trade and commerce shall have power, subject to the approval of the court, to make and prescribe such rules and regulations as the department of trade and commerce may deem proper.

6. The department of trade and commerce shall transmit to the legislature, in its annual report, the names of the companies so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall acquaint the policy holders, creditors, stockholders and the public with its proceedings under this section.

7. At any time after the court shall order the liquidation of the business of any such company, as provided in paragraph three of this section, the department of trade and commerce may apply for the dissolution of such company, and the same, after due notice and hearing, and such other procedure as the court shall deem proper, shall be dissolved.

8. This section shall also apply to any domestic company which is doing, has done, or is attempting to do, or representing that it is doing an insurance business in this state, or which is in process of organization intending, or representing that it is intending to do any such business therein.

Sec. 5. **(3148) May revoke certificate.**—Whenever any of the grounds mentioned in the next preceding section are shown to exist after a hearing upon notice to the company as to a domestic company, the department of trade and commerce may revoke the certificate of authority of such company to do business instead of applying to the court, which order of revocation shall be subject to a review within forty days thereafter by the district court of the county in which the home office of such company is situated. All proceedings, however, shall be conducted thereafter the same as if the suit had been originally instituted by the department of trade and commerce.

Sec. 6. **(3149) Same—foreign company.**—Whenever any of the grounds mentioned in the second preceding section exist as to foreign or alien companies, the department of trade and commerce shall revoke the certificate of authority of such company to do business in this state, which order of revocation shall be subject to review within forty days thereafter by the district

court of the county in which the capital of the state is located. An appeal by the company shall give the court full power over it, to deal with it and its property within this state as justice and equity may require; but such appeal shall not stay the operation of the order of revocation, so far as it applies to the transaction or doing of new business.

Sec. 7. (3150) Foreign company—appointment of attorney for service.—The department of trade and commerce shall not issue a certificate of authority to transact any business of insurance in this state to any foreign or alien insurance company until it has executed and filed in the office of the department of trade and commerce, a written appointment of the department of trade and commerce to be the true and lawful attorney of such company in and for this state upon whom all lawful process in any action or proceeding against such company commenced in any county in this state may be served with the same effect as if it were a domestic company having its principal office in such county. The service upon such attorney shall thereafter be deemed service upon the company. Service of process against any such company may be had by serving duplicate copies upon the department of trade and commerce and upon such service being made upon it as such attorney, it shall forthwith mail by registered letter one of such duplicate copies of such process to such company at its home office, or general agency, or in the case of any alien company, to the resident manager, if any, in this country. The department of trade and commerce shall keep a record of all such processes which shall show the day and hour of service.

Sec. 8. (3151) Increase or decrease of capital.—The department of trade and commerce shall cause to be examined by its officers, the proceedings of every domestic insurance company to increase or reduce its capital stock, and if found conformable to law and approved by the department of trade and commerce, shall issue a certificate of authority to such company to transact business upon such increased or reduced capital. It shall require a vote of one-half of the capital stock to increase or decrease the same.

Sec. 9. (3152) Annual statement blanks.—The department of trade and commerce shall, annually, in December, furnish to

each insurance company, authorized to do business in this state, two or more blank forms on which to make its annual statement to the department of trade and commerce.

Sec. 10. (3153) **Records of department.**—The department of trade and commerce shall preserve in a permanent form a record of its proceedings, and the acts and proceedings of its officers, including a concise statement of the results of all investigations or examinations of insurance companies; and a certificate under the seal of the department of trade and commerce relative to the authority of the company agent or broker to transact business in this state upon any particular date, shall be received by any court in this state in lieu of the testimony of the secretary of the department of trade and commerce.

Sec. 11. (3154) **Report—contents—printing.**—The department of trade and commerce shall transmit to the governor, ten days prior to the opening of each session of the legislature, a report of its official transactions, and containing, in a condensed form, the statements made to the department of trade and commerce by every insurance company authorized to do business in this state, pursuant to the provisions of this article, as audited and corrected by it, and arranged in tabular form or in abstracts, in classes, according to the kind of insurance, and which report shall also contain:

1. A statement of all insurance companies authorized to do business in this state during the year ending the thirty-first day of December next preceding, with their names, locations, amounts of capital, dates of incorporation and of the commencement of business and kinds of insurance in which they are engaged respectively;

2. A statement of the insurance companies whose business has been closed since making the last report, and the reasons for closing the same, with the amount of their assets and liabilities so far as the same are known or can be ascertained by the department of trade and commerce;

3. The names and compensation of the officers and employees employed by it, and the whole amount itemized, of the expenses of the department of trade and commerce during such period;

4. Any amendments to this article, which, in the judgment of the department of trade and commerce, may be desirable.

In addition to one hundred and fifty copies of the insurance report for the use of the legislature there shall be printed and bound by the state the necessary number of copies thereof for the use of the department of trade and commerce. The department of trade and commerce shall also compile and have printed by the state all books and insurance laws in pamphlet form for distribution.

Sec. 12. **(3155) Fees.**—The department of trade and commerce shall require, in advance, the following fees: For filing and examination of the first application of any company or association, and issuing of the certificate of license thereon, fifty dollars; except assessment associations which shall pay a fee of ten dollars only; for filing each subsequent annual statement herein required, and issuing the certificate of license thereon, twenty dollars, except assessment associations which shall pay a fee of two dollars only; for each certificate of authority to a company or association incorporated by or under the laws of any other state or country, or any agent or agents of such company, two dollars; for each certificate of authority issued to any domestic company, or any agent or agents of such company, fifty cents; for filing any report which may be required by the department of trade and commerce from any unincorporated mutual association, two dollars; for every copy of any paper filed as herein provided, the sum of ten cents per one hundred words or fraction thereof, and fifty cents for certifying to the same and affixing the seal thereto. All of such fees shall be paid in advance into the state treasury, and by the state treasurer placed in the account of and for the use of the general fund.

Sec. 13. **(3156) Who agents represent.**—Every agent or broker who shall solicit an application for insurance of any kind shall, in any controversy between the insured or his beneficiary and the company issuing any policy upon such application, be regarded as representing the company and not the insured.

Sec. 14. **(3157) Fees for examination.**—Every insurance company of every kind or class now engaged or that may hereafter be engaged in the business of insurance in this state, upon

any examination being made of its affairs by the department of trade and commerce or by any person authorized by said department of trade and commerce, shall pay the fees and expenses of such examination in the following manner: Immediately after the completion of any examination of any insurance company doing business in this state, the officer or person authorized to make examination shall make out an itemized bill for services as such examiner, which shall include hotel and traveling expenses, and the cost of any assistants that shall be necessary, together with the sum of ten dollars per day for services, including the time of going to and from the place where such examination is made. The same shall be filed with the insurance company examined, and such insurance company shall immediately remit the amount due for such examination in the name of the state treasurer; and such remittance shall be sent to the department of trade and commerce, and by it, paid into the state treasury. The examiner, upon making such examination and investigation, shall prepare an itemized statement of the expenses involved in making such examination. Upon presentation of such voucher to the state auditor, properly signed and sworn to by the person making such examination, countersigned by the department of trade and commerce, the auditor is hereby authorized to draw his warrants against the general fund therefor, in the same manner in which warrants are drawn for the payment of other bills. In cases where the examination is made by other than an officer or regular employee of the board he shall be compensated for his services in addition to the expenses as stated herein and in the same manner and amount.

Sec. 15. (3158) License revoked on removal of suit.—Whenever there shall be filed with the department of trade and commerce a certified copy of the petition filed in any district court of this state by any foreign or alien insurance company or association doing business in this state, showing that any such company or association has removed any suit between itself and a citizen, or citizens, of this state to the federal court, the department of trade and commerce shall forthwith cancel, revoke and annul the authority of such company or association to transact the business of insurance in any of its forms in this state.

Sec. 16. (3159) Same—reinstatement.—When the authority

of any foreign or alien insurance company or association to transact the business of insurance in this state has been cancelled, revoked and annulled pursuant to the provisions of the next preceding section, it shall be unlawful for the department of trade and commerce to again authorize or license such company or association to transact the business of insurance in any of its forms in this state until the expiration of three years from and after the date of such cancellation, revocation or annulment.

Sec. 17. (Ch. 72, 1917) **Reciprocal licenses—taxes.**—Whenever the laws of any other state, or the rules and regulations of the insurance department of any such state, shall require of insurance companies organized under the laws of this state any deposit of securities or money in such state for the security of the policy holders, or any payment of taxes, fines, penalties, certificates of authority, licenses or fees, or any other duties, examinations or acts than are by the laws of this state required of such companies organized under the laws of such other state, then the department of trade and commerce shall immediately require from every insurance company of every kind and character whatever of such other states, transacting, or seeking to transact business in this state, a like payment of all licenses, taxes, fines or penalties, and a like making of all deposits of securities and statements and the like doing of all acts which by the laws or rules of the insurance department of such other state, are in excess of the licenses, fees, fines, taxes, deposits, statements, penalties, acts, examinations or duties required by the laws of this state of the companies of such other states. Whenever the laws of any other state, or the rules and regulations of the insurance department of any such state, shall require of insurance companies organized under the laws of this state the payment of loan, surrender or non-forfeiture values to policy holders of such companies within such other state or states, based upon a minimum rate of interest less than that used by such Nebraska company, or companies, in computing the amount of such loan, surrender or non-forfeiture values to be paid to its policy holders within this state, then, as a condition precedent to a company organized under the laws of such other state, being permitted to conduct or continue to conduct business in this state, the department of trade and commerce may require that such company

shall compute the loan, surrender or non-forfeiture values to be paid to Nebraska policy holders, by such company or companies, of such other state on the basis of a minimum interest rate less than the interest rate used by such company or companies as a basis for such loan, surrender or non-forfeiture values in its home state, by an amount equal to the difference between the rate used by such Nebraska company or companies in computing such values to be paid to its policy holders in this state and the minimum rate required by such other state or states, to be used by such Nebraska company or companies in computing the amount of such values to be paid by it to its policy holders in such other state or states. Whenever the laws of any other state or the rules and regulations of the insurance department of such state shall require of, or place restrictions upon, or fix the qualification for insurance agents residing in this state, but who are doing, or desire to do, business in such other state or states, other or different than in this state, are required of, placed upon or fixed for insurance agents residing in such other state or states, but who are doing or desire to do, business in this state, then the department of trade and commerce of this state may make the same requirements of, or place the same restrictions upon, or fix the same qualifications for all insurance agents residing in such other state or states, who are doing, or desire to do, business in this state, as are, by such other state, or states, required of, placed upon or fixed for insurance agents residing in this state, but who are doing, or desire to do business in such other state or states.

Sec. 18. (3161) **Unauthorized companies—agents—hire—service.**—The department of trade and commerce in consideration of a yearly payment of one hundred dollars and the furnishing of a bond as hereinafter provided, may issue to any citizen in this state, a license revocable at any time, permitting the party named in such license to place or effect insurance upon risks located in this state with companies not licensed to do business in this state. No person shall place, procure or effect insurance upon any risk located in this state in any company not licensed to do business in this state until such person shall have first procured a license from the department of trade and commerce as provided in this section and has furnished a bond to the state of Nebraska in the penal sum of not less than five hundred dollars,

nor more than three thousand dollars, the amount thereof to be fixed by the department of trade and commerce with sureties thereon to be approved by the department of trade and commerce conditioned that he will conduct such business in accordance with the provisions of this section, and will pay the taxes assessed against such company. Every such agent shall keep a true and complete record of the business transacted by him, showing:

1. The exact amount of each insurance;
2. The gross premiums charged therefor;
3. The return premium paid thereon;
4. The rate of premium charged for such insurance upon the different items of property;
5. The date of such insurance and terms thereof;
6. The name and address of the company making such insurance;
7. The name and address of the insured and a brief and general description of the property insured, where located, and such other facts and information as the department of trade and commerce may direct and require, which record shall at all times be open and subject to the inspection and examination of the department of trade and commerce or its officers. Every policy procured and delivered under the provisions of this section shall have stamped upon it and be initialed by the agent clearing the same in this state the following:

“This policy is registered and delivered at.....
....., Nebraska, this.....day of
....., 19....., under the provisions
of the laws of Nebraska relating to insurance.”

Every agent who places, effects or delivers any insurance or insurance policy, as provided in this section shall annually on or before the fifteenth day of February, in each year make and file with the department of trade and commerce a verified statement upon a form prescribed by the department of trade and commerce, which shall exhibit the true amount of all such business transacted during the year ending on the thirty-first day of December next preceding the making thereof, showing the gross amount of each kind of insurance, the gross premiums

charged, the aggregate amount of return premiums paid to the insured, the amount of net premiums, and such other facts as the department of trade and commerce may prescribe and require. The agent making such statement shall list with the proper assessor the premiums received and pay taxes thereon in the same manner as other foreign companies.

Before any insurance shall be procured, or effected under such license, there shall be executed by such agent, and by the party or his authorized agent desiring insurance, an affidavit, which shall be filed with the department of trade and commerce within thirty days after procuring such insurance. Such affidavit shall set forth that the party desiring insurance is, after diligent effort, unable to procure the insurance required to protect the property owned or controlled by him, from the companies licensed to transact business in this state.

Every company making insurance under the provisions of this section shall be held to be doing business in this state as an unlicensed company and may be sued upon any cause of action arising under any policy of insurance so issued and delivered by it in the county where the agent who registered or delivered such policy resides or transacts business, by the services of summons made upon such agent for such company. Upon service of summons being had upon such agent, the court in which the action in (is) begun shall be deemed to have duly acquired jurisdiction in persona of the defendant company so served.

Every such agent who fails or refuses to make and file such annual statement shall be fined the sum of twenty-five dollars for each day of such delinquency, after the date upon which it should be filed and if he shall violate any of the provisions of this section, the license of such agent shall be immediately revoked by the department of trade and commerce and no license shall be issued to him within one year from the date of such revocation, nor until the department of trade and commerce shall be satisfied that full compliance with the provisions of this section will be had.

Sec. 19. (3162) Business to be placed with solvent companies—penalty.—Every agent or broker, transacting business under the provisions of the next preceding section, shall ascer-

tain the financial condition of each company before the (he) procures a policy of insurance therefrom, or places any insurance with such company. Any agent or broker, who knowingly places any insurance with, or procures any insurance from any company whose unimpaired capital if a stock company, or if other than a stock company, whose cash assets are less than two hundred thousand dollars after providing for re-insurance reserve on the pro rate basis, shall be fined not less than twenty-five dollars nor more than one hundred dollars, and his license shall be immediately revoked by the department of trade and commerce.

Sec. 20. **(3163) Existing companies may continue.**—Every domestic insurance company, association or society previously organized and licensed to transact business in this state at the time this article goes into effect, is hereby recognized as an existing company, and shall have the right to continue such business under the provisions of this article.

Sec. 21. **(3165) Officers of company.**—The directors of every stock company and the board of directors or policy holders of every mutual company or assessment association, as provided in the articles of incorporation, may elect such officers as are necessary to conduct the business of the company, including a president, secretary and treasurer thereof, and such other officers and employees as may be required to carry on the business of the company, and may fix their terms of office or employment, their salaries and compensation and which shall not be in conflict with any of the provisions of this chapter relating thereto.

ARTICLE IV.

GENERAL PROVISIONS.

Section 1. **(3166) Application of general laws.**—The general provisions of law relating to the powers, duties and liabilities of corporations, and the incorporation thereof, excepting as otherwise provided herein, shall apply to all incorporated insurance companies so far as such provisions are applicable or pertinent to and not in conflict with other provisions of the law relating to such companies. But no insurance company shall be required to publish a notice of its indebtedness.

Sec. 2. (3167) **Certificates of authority.**—No insurance company shall transact any insurance business in this state unless it has received a certificate of authority from the department of trade and commerce to do so. This certificate shall expire on the last day of April in each year and shall be renewed annually if the company has continued to comply with the laws of this state, and the rules and regulations of the department of trade and commerce. Authority to do an insurance business in this state shall be refused any company hereafter organized whose organization and promotion expenses exceed ten per cent. of the par value of the stock actually sold for cash.

Sec. 3. (3168) **Name of company to appear on policy.**—Every insurance company shall conduct its business in this state in its own name, and the policies and contracts of insurance issued by it shall be headed or entitled by such name. Two or more companies may jointly issue an underwriter's policy, upon which must appear the names of the companies guaranteeing the same, and such companies shall be jointly and severally liable thereon: Provided, this limitation shall not apply to any insurance company admitted to this state and issuing an underwriter's policy prior to the passage and approval of this article, nor, in the discretion of the department of trade and commerce, to any insurance company desiring to issue an underwriter's policy after the passage and approval of this Article.

Sec. 4. (3169) **Unlawful use of name.**—It shall be unlawful for any insurance company to permit the use of its name, or for any other company, person or firm to use the name of any insurance company in such a way as to deceive or mislead the public. The violation of this section by an insurance company will be ground for the revocation of its license, and the person, firm or corporation so using the name of an insurance company shall be punished by a fine of not exceeding one hundred dollars for each offense.

Sec. 5. (3170) **Policy issued in name of party in interest.**—No policy of insurance shall be issued upon any property except in the name of some party having an interest in the property.

Sec. 6. (3171) **Who governed by law.**—All domestic insurance companies, and insurance agent, solicitor, broker, sur-

veyor or adjuster doing business in this state, and all insurance business transacted in whole or in part within or outside of this state, the subject and matter of which is located wholly or in part in this state, shall be subject to and be governed by this article, and the records of such insurance company, agent, solicitor, broker, surveyor or adjuster doing business in this state shall be subject to inspection and examination of the department of trade and commerce.

Sec. 7. (3172) **“Agent” defined.**—Any person, firm or corporation in this state who shall with authority receive or receipt for any money on account of, or for any contract of insurance made by him or them, or for any such insurance company or individual aforesaid, or who shall with authority receive or receipt for money from other persons to be transmitted to any such company or individual aforesaid for a policy or policies of insurance, or any renewal thereof, although such policy or policies of insurance may not be signed by him or them, as agent or agents of such company, or who shall in any wise make or cause to be made any contract or contracts of insurance, for or on account of such company aforesaid, shall be deemed, to all intents and purposes, an “agent” or “agents” of such company.

Sec. 8. (3173) **Preliminary requirements—papers to be filed.**—Every insurance company before engaging in the business of insurance in this state must file in the office of the department of trade and commerce a legally authenticated copy of its charter, articles of incorporation, or association or record of its organization and by-laws as follows:

1. If a domestic company, a copy of its articles of incorporation, or association together with any amendments or alterations made therein;

2. If a foreign or alien company, a copy of its articles of incorporation or charter and by-laws, including all amendments or alterations made therein, with a certificate duly certified by the officer having the custody of such articles or charter, under his seal of office, that such company is duly authorized under the laws of such state or country to do business therein, and a certificate showing the amount of capital stock and assets as required by this article, together with a copy of its last annual

statement made in the state or country where it is organized, duly certified:

3. Furnish such other information and copies of all other papers which the department of trade and commerce may require.

Sec. 9. (3174) Capital and assets required—foreign company.—No foreign or alien insurance company shall be permitted to transact any business of insurance in this state unless it possesses, in its own exclusive name and right, paid up, unimpaired capital stock, if a stock company, or must own, have and possess, in its own exclusive name and right, net assets unimpaired of the kind required by this chapter, if a mutual company, equal to the minimum amount of the paid up capital, or assets required by this article to entitle any domestic insurance company to transact a like business. No part of said minimum capital or assets shall consist of the capital stock of its own or any other insurance company. No alien insurance company shall be authorized to transact any business of insurance in this state unless it shall have deposited with the insurance department of some one state in the United States not less than two hundred thousand dollars in approved securities for the benefit of all its policy holders in the United States.

Sec. 10. (Ch. 73. 1917) Insurance companies—authorized investments.—The capital stock of every domestic insurance company shall be invested and kept invested to the extent of the minimum capital required by law as follows:

1. In legally executed bonds, warrants and securities of the United States or the District of Columbia, or of any state of the United States not estimated above their par value, nor their current market value: or,

2. In legally executed bonds, warrants and securities of any county, incorporated city or school district in any state which has not defaulted in the payment of interest on any of its bonds, warrants or securities within three years, and which shall not be estimated above their par value nor their current market value: or,

3. In legally issued bonds or notes secured by first mortgage on real estate in this or any of the other states of the United States worth, with the improvements thereon, at least double the

sum loaned thereon. Where buildings or other improvements constitute a material part of the value of the mortgaged premises, they shall be kept insured against loss or damage by fire in a reasonable amount for the benefit of the mortgagee.

4. The residue of the capital, together with the surplus and other funds of every such company, may be invested in or loaned on the pledge of any of the above securities; or in any bonds of drainage or irrigation districts within the state of Nebraska or other state within the United States of America, or bonds issued by any farm loan bank doing business under authority of the United States of America, but such funds shall not be invested in or loaned upon any other bonds or obligations which shall not be secured by adequate collateral security or where more than one-third of the total value of the collateral security therefor shall consist of shares of stock: Provided, the amount loaned on real property or mortgages thereon does not exceed fifty per cent of the reasonable cash market value of such property, and the requirements as to keeping the improvements thereon insured is observed. Said funds may also be loaned by a life company on any of its policies, not exceeding the legal reserve thereon.

Sec. 11. (3176) **Same—foreign company.**—The capital and funds of every foreign or alien insurance company shall be invested and kept invested in the same class of securities specified for domestic insurance corporations, except that securities authorized by the law of the home state, or country, of such company may be recognized as legal investments, in the discretion of the department of trade and commerce.

Sec. 12. (3177) **Domestic company may acquire real estate.**—Every domestic insurance company may invest in such real property as shall be requisite for its home offices in the transaction of its business, and may rent the balance of any space therein. No such investment shall hereafter be made in excess of twenty-five per cent. of the amount of its admitted assets. It may also acquire such other real estate:

1. As shall have been mortgaged to it in good faith by way of security for a loan previously contracted, or for money due;

2. Such as may be conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

3. Such as may be purchased at sale upon judgments, decrees or mortgages obtained or made for such debts.

If such company acquires title to or a lien upon any property or securities which it may not otherwise invest in, or loan its funds upon, it shall dispose of the personal property within two years and the real property within five years from the time of acquiring the same. The department of trade and commerce, upon proper showing, may extend such period a reasonable time not exceeding three years.

Sec. 13. (Ch. 74, 1917) **Domestic companies—deposit of securities.**—Every domestic company, excepting fire, lightning and tornado assessment associations, shall deposit all of its investment securities, not including premium notes, with the department of trade and commerce for the benefit of its policy holders until they aggregate the sum of one hundred thousand dollars, and thereafter keep such amount of its securities deposited with the department of trade and commerce and no more, as near as may be practicable: Provided, any domestic insurance company desiring to transact business in any other state may deposit with the department of trade and commerce securities to the amount and value required by such other states as a condition to the permission to do business therein by such company. As long as the company remains solvent, it may collect the interest on all of its securities so deposited and it may withdraw any of them by depositing other of equal value. The department of trade and commerce shall give to each company a receipt for every security deposited. Every such company shall, on or before the third day of January and July of each year, file with the department of trade and commerce, a true list of all its securities not so deposited with the department of trade and commerce held by such company on the last day of the preceding month. The department of trade and commerce, as often as it is deemed advisable, may cause an examination to be made of the securities held by any such company.

Sec. 14. (3179) **Prohibition upon officers.**—No director or officer of any domestic company doing business under this article shall receive any money or valuable consideration for negotiating any loan for any such company, or for selling or aiding in

the sale of any property to or by the company, nor shall such director or officer borrow money from, or buy from or sell to any such corporation, any property. No investment, sale or loan, except loans on its own policies shall be made, which has not first been authorized by the board of directors, or by a committee thereof, charged with the duty of investing or loaning the funds of the company; nor shall any deposit be made in a bank or banking institution in excess of the sum of two thousand dollars, unless such bank has first been approved as a bank of deposit by the board of directors or such committee thereof, and unless a vote of the board or such committee thereof authorizing such investment, sale or loan or approval of the place of deposit, has been duly recorded in the books of the company.

Sec. 15. **(3180) Losses—deposits.**—Whenever any company shall sustain losses in excess of its other resources, the department of trade and commerce, upon proper showing, may turn over to it so much of its securities as shall be necessary to provide funds to pay its losses (losses), and such securities shall not be used for any other purpose. The department of trade and commerce may allow such company a reasonable time within which to deposit other securities in an amount equal to those withdrawn. Any company entering (entering) into a reinsurance contract whereby its entire business is reinsured as provided in this chapter may, upon a showing that all its outstanding obligations have been paid or assumed by the reinsurance company, withdraw all its securities deposited with the department of trade and commerce.

Sec. 16. **(Ch. 75, 1917) Annual statement.**—Every insurance company doing business in this state, unless otherwise provided or excepted in this article, must make and file with the department of trade and commerce, on or before the first day of March of each year, a statement under oath for the year ending December 31st immediately preceding upon a form to be prescribed and furnished by the department of trade and commerce, which form shall at least include the substance of that required by what is known as the "convention" blank form, adopted from year to year by the national convention of insurance commissioners, and shall also include the salaries and compensations of the officers and any other information required by the depart-

ment of trade and commerce. The department of trade and commerce shall not issue any license to any company, either domestic or foreign, until the said company has complied with all the provisions of this section.

Sec. 17. **(3182) Salaries—officers.**—No domestic company shall pay any salary, compensation or emolument to any officer, trustee or director thereof, in excess of a reasonable compensation for the services performed by such person and in no case amounting in any one year to more than five thousand dollars, to any person, firm or corporation unless a greater sum shall be first authorized by a vote of two-thirds of the board of directors of such company, if a stock company, duly recorded in the minutes of the board meeting; and if a mutual or assessment company, unless a greater sum shall be first authorized by a vote of two-thirds of those present in person or by proxy, of the policy holders of such company, at an annual meeting, duly cast and recorded in the minutes of such meeting. No such company shall make any agreement with any of its officers or employees except soliciting agents whereby it agrees that for any services rendered, or to be rendered, they shall receive any salary or compensation that will extend beyond a period of five years from the date of such agreement; nor shall it pay any pension whatsoever. No officer, director or trustee who is paid a salary for his services of more than two hundred dollars per month, shall receive any other compensation.

Sec. 18. **(3183) Vouchers for expenditures.**—No domestic company shall make any disbursements of twenty-five dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements, the vouchers shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditure be in connection with any matter pending before any legislature or public body, or before a department or officer of any state or government, the voucher shall correctly describe, in addition to the nature of the matter, the interest of such company therein. When such vouchers cannot be obtained, the expenditure shall be evidenced by an affidavit of some officer of the company describing the

character and object of the expenditure and stating the reason for not obtaining such vouchers.

Sec. 19. **(3184) Business authorized.**—No domestic insurance company shall transact any business other than that specified in its articles of incorporation and no foreign or alien company admitted to transact business in this state shall transact any other kind of business than that which it has been authorized by the laws of the state or country of its incorporation to do.

Sec. 20. **(3185) Policy provisions voided.**—No insurance company shall issue in this state any policy or contract of insurance containing a provision, stipulation, or agreement that such policy shall be construed according to the laws of any other state or country, or any provision limiting the time within which an action may be brought to less than the regular period of time prescribed by the statutes of limitations of this state, unless otherwise prescribed by this article.

Sec. 21. **(3186.) Combination agreements prohibited.**—If any insurance company authorized to transact business in this state, or any agent or representative thereof, shall, either within or outside this state, directly or indirectly enter into any contract, understanding or combination with any other insurance company, or agent or representative thereof for the purpose of controlling the rates to be charged for insuring any risk or class or classes of risks in this state, the department of trade and commerce shall forthwith revoke its license, and those of its agents, and no renewal of the license shall be granted until after the expiration of one year from the date of final revocation.

Sec. 22. **(3187) Warranty not avoid policy unless deceptive.**—No oral or written misrepresentation of warranty made in the negotiation for a contract or policy of insurance by the insured, or in his behalf, shall be deemed material or defeat or avoid the policy or prevent its attaching unless such misrepresentation or warranty deceived the company to its injury. The breach of a warranty or condition in any contract or policy of insurance shall not avoid the policy nor avail the insured to avoid liability unless such breach shall exist at the time of the loss and contribute to the loss, anything in the policy or contract of insurance to the contrary notwithstanding.

Sec. 23. (3188) Insurance to be placed through agents.—

No insurance company admitted to do business in this state shall write, place or cause to be written or placed, any policy of insurance covering risks located or residing in this state, except through or by a duly licensed agent of such company residing within or licensed by the department of trade and commerce, except that any officer of a domestic company may write or place a policy of insurance if done at the home office of such company.

Sec. 24. (3189) Dividends to be paid from earnings.—

It shall be unlawful for the officers, directors, trustees or managers of any domestic insurance company to declare or pay any dividends, except from the surplus profits arising from its business, which shall be ascertained in accordance with the requirements and provisions of this article.

Sec. 25. (3190) False statements as to assets prohibited.—

No insurance company, or agent or solicitor thereof shall anywhere publish, represent or advertise assets except those actually owned by the company in its own exclusive right available for the payment of losses and claims and held for the protection of its policy holders and creditors; or make any false or misleading statements, or suppress any of its liabilities.

Sec. 26. (3191) Advertisement of capital and surplus.—

Every advertisement or public announcement, and every sign, circular or card issued by any insurance company doing business in this state, purporting to show its financial condition, shall correspond with or include the corresponding items from its verified statement made to the department of trade and commerce. For violation of this or the preceding section by a company, it shall be fined for the first offense the sum of two hundred and fifty dollars, and for every subsequent offense, the sum of five hundred dollars.

Sec. 27. (3192) Agents—admitted companies.—

No person shall act as soliciting agent or broker for any insurance company in the transaction of any business of insurance within this state, or negotiate for or place risks for any such company, or in any way or manner aid such company in effecting insurance in this state except as provided in section 18 of Article III, unless such

company shall in all things have complied with the provisions of this Article. Every insurance soliciting agent or broker shall annually procure a license from the department of trade and commerce which shall make and keep a record thereof. Only a natural person shall be licensed as an agent or broker and every license shall expire on the last day of April in each year.

Sec. 28. (Ch. 76, 1917) Agents—application for license.—

No license shall be issued to any agent, except upon application of the company upon a form to be furnished by and filed with the department and no license shall be issued for any broker's license until such applicant shall have filed an application therefor upon a form furnished by the insurance board. The department shall furnish to each insurance company application blanks to be filled out and signed by the agent applying for the license. The application blanks shall require the agent to state his name, residence, the name or names of any insurance companies he may have worked for, or solicited insurance for in the past, together with their address, and whether or not he was discharged or voluntarily left the employment of such other company or companies; it must also show how long applicant has been engaged in the insurance business and in what branches. The agent shall also state in said application whether or not he owes said insurance company or companies any money for premiums collected by him and not turned over to said company, or for money advanced by said company or companies and not paid back. He shall also state whether he violated any of the insurance laws of the state while he was in the employ of said company or companies. The statements and answers made in the applications shall have the same force and effect as if sworn to. If said application of said agent shows that such applicant owes any insurance company money for premiums collected or money advanced, or that said applicant violated any insurance laws of this state or of any state where he may have been employed as an insurance agent, then in that case it shall be the duty of the department to withhold the license applied for. It shall also be the duty of the department to withhold any license applied for when it is satisfied that the principal use of such license is to effect insurance upon the property, life, health, or liability of such person, his employer, or employee, or to circumvent the en-

forcement of the antirebate law. If a license shall be granted to said applicant and the application, or any statement therein contained is found to be untrue, then in that case the department shall at once cancel said license. Upon the filing of an affidavit, duly verified by two residents of the State of Nebraska that an agent holding such a license has misrepresented the provisions of any policy of insurance in the solicitation or sale of such a policy, alleging the facts constituting such misrepresentation, the department shall file such affidavit in the office of the county judge of the county in which such misrepresentation is alleged to have been made and upon the filing of such affidavit a cause shall be docketed as in other civil cases in county courts, the agent being designated the defendant. A summons shall be issued for the defendant, which summons may be served in any county in this state where the defendant may be found, and upon the return day of the summons if a continuance be not granted a trial shall be held to the court without a jury, at the conclusion of which the court shall make a finding of the facts and law. In case the finding of the court is that said complaint is sustained, the judgment of the court shall be that the defendant's license be cancelled and that the defendant pay the costs, and if the finding be that the complaint is not sustained, the action shall be dismissed at the cost of the complainants. Provided, that either party may appeal to the district court, by giving bond, as in other civil cases.

Sec. 29. (3194) Revocation of agent's license.—Upon the notice and hearing, the department of trade and commerce may revoke for a period of not less than thirty days, nor for more than one year, for the first offense, and for a period of not less than two years nor more than five years for the second offense, the license of any agent or broker who violates any of the provisions of this article, or if he obtained the license originally, to circumvent the enforcement of the anti-rebate provision hereof, or if he has been guilty of fraudulent practices.

Sec. 30. (3196) False statement in application.—Any agent, broker, examining physician or other person, who knowingly and wilfully makes a false or fraudulent statement, or misrepresentation, in or relative to an application for insurance, or who makes any such statement for the purpose of obtaining a fee, commis-

sion, money or benefit in a company transacting such business under the provisions of this article shall be fined not less than twenty-five dollars nor more than one hundred dollars.

Sec. 31. (3197) **False proof—penalty.**—Whoever, knowing it to be such, presents or causes to be presented, a false or fraudulent claim, or any proof in support of a false or fraudulent claim for the payment of a loss upon a contract of insurance, or prepares, makes or subscribes to a false or fraudulent account, certificate, affidavit or proof of loss or other document in writing, with intent that the same be presented or used in support of such claim, shall be fined in any sum not exceeding five hundred dollars.

Sec. 32. (3198) **Violations to be reported.**—Every insurance company, agent, solicitor or broker, and every person or party having knowledge of violation of any of the provisions of this article, is required to promptly report the facts and circumstances pertaining thereto to the department of trade and commerce, which report and the name of the informant may be held confidential by the department of trade and commerce, its officers, assistants and employees and not be made public.

Sec. 33. (3199) **Annual meetings.**—Every domestic company, association or society shall hold an annual meeting of its stockholders, if a stock company, and of its members, if a mutual company, or an assessment association or society, in the month of January or February for the purpose of receiving the report of its officers and directors and to elect directors, and transact such other business as may be lawful for it to do. Each share of stock in a stock company and each policy holder in a mutual company or assessment association shall be entitled to one vote in the election of directors, and on all matters coming before the meeting, and if unable to attend in person may appoint any officer, stockholder or member his proxy to vote his stock or policy, as the case may be. All proxies shall be filed with the company at least five days prior to the day of the meeting, and they shall expire within six months from their date, unless otherwise provided in the application or policy.

Sec. 34. (3200) **Insurance applied to insured's interest.**—When the name of the party intended to be insured is specified

in a policy such insurance can be applied only to his own proper interest.

Sec. 35. **(3201) Insurance to agent.**—When insurance is issued to an agent or trustee, the fact that his principal or beneficiary is the person really insured is sufficiently indicated by describing him as agent or trustee or by other general words in the policy.

Sec. 36. **(3202) Insurance effected, joint or partnership interest.**—To render an insurance effective by one partner or part owner applicable to the interest of his copartner or other owner, it is necessary that the terms of the policy should be such as are applicable to the joint or partnership interest.

Sec. 37. **(3203) Insured intended—proof.**—When the description of the insured in the policy is so general that it may comprehend any person or class of persons, he only can claim the benefit of the policy who can show that it was intended to include him.

Sec. 38. **(3204) Policies subject to inspection.**—The department of trade and commerce and its employees shall have the right at any time to inspect any policy covering any risk in this state; and every policy holder shall procure and exhibit any policy in his possession or control, when required for the inspection of the department of trade and commerce or its assistants or employees.

Sec. 39. **(3205) Policy fee forbidden.**—It shall be unlawful for any insurance company, association or society, or for any officer, manager, agent or other representative thereof, to include in the sum charged or designated in any policy as the consideration for insurance, any fee, compensation, charge or perquisite whatsoever not specified in the policy. When collected the same shall be reported as such.

Sec. 40. **(3206) Agent to report exact consideration.**—Every agent or other representative of any company issuing a policy on its own behalf in this state shall report to the company the exact consideration charged and written in the policy as a premium for the risk.

Sec. 41. **(3207) Penalty for violating preceding sections.**—Whoever violates any of the provisions of either of the three

next preceding sections shall be fined in any sum not less than twenty dollars nor more than one hundred dollars.

Sec. 42. (3208) Cancellation of policy by insured.—Any company or association transacting the business of insuring property against loss or damage from any cause shall, except as is otherwise provided in this Article by any provisions applicable to any class of insurance companies, cancel any policy of insurance at any time upon the request of the party insured, his assignee or legal representative, and return to said party, or his representative, the amount of premium received by the company as stated in the policy after deducting the customary short rate premium for the expired time of the full term for which the policy was issued or renewed, anything in the policy to the contrary notwithstanding. Any company or association also reserves the right to cancel any policy or any part thereof by tendering to the assured the paid unearned premium.

Sec. 43. (3209) Identity of names.—No company, association or society organized under this article shall take any name in use by any other company, association or society, or so closely resembling such name as to mislead the public as to its identity.

Sec. 44. (3210) Value of policy.—Whenever any policy of insurance shall be written to insure any real property in this state against loss by fire, tornado or lightning, and the property insured shall be wholly destroyed, without criminal fault on the part of the insured or his assignee, the amount of the insurance written in such policy shall be taken conclusively to be the true value of the property insured and the true amount of loss and measure of damages.

Sec. 45. (3211) Attorney's fee.—The court, upon rendering judgment against the insurance company upon any such policy of insurance mentioned in the next preceding section, shall allow the plaintiff a reasonable sum as an attorney's fee, to be taxed as part of the costs. If the cause is appealed, the appellate court shall in like manner allow the plaintiff a reasonable sum as an attorney's fee for the appellate proceedings.

Sec. 46. (3212) Insurance—action—attorney's fee.—In all cases where the beneficiary, or other person entitled thereto, brings an action at law upon any policy of life, accident, liability,

sickness, guaranty, fidelity or other insurance of a similar nature, or upon any certificate issued by a fraternal beneficiary association, against any company, person or association doing business in this state, the court, upon rendering judgment against such company, person or association, shall allow the plaintiff a reasonable sum as an attorney's fee in addition to the amount of his recovery, to be taxed as part of the costs, and if such cause is appealed the appellate court shall likewise allow a reasonable sum as an attorney's fee for the appellate proceedings.

Sec. 47. (3213) Surrender values prohibited.—No company, association or society, other than a legal reserve life insurance company, shall hereafter give or promise any cash surrender values in its policies whatever, except for the unearned premium. Each accident corporation which has heretofore issued policies providing for a cash surrender value at any given period shall value such policies as pure endowments based upon an experience table and the rate of interest authorized by this article. This reserve shall be in addition to the unearned premium reserve of such a company. Every policy heretofore issued by any other insurance corporation shall be valued either according to the terms of the policy itself or the provisions of this article.

Sec. 48. (3214) Unincorporated mutual association excepted.—Nothing in this article shall be so construed as to prevent any number of persons, residents of this state, from making mutual pledges and giving valid obligations to each other for their own insurance, from loss by fire, lightning, tornado, cyclone, windstorms, hail, death, or other cause from which insurance from loss may be obtained under any of the laws of this state; but such association of persons shall in no case insure any property not owned by one of their number, and no life except that of their number, nor shall the provisions of this article be applicable to such associations of persons except that the department of trade and commerce may require such reports as they deem advisable: Provided, such associations of persons shall receive no premiums, make no dividends, nor pay in any case more than two dollars per day to any of their officers or employees, and then only when actually employed for the association, nor shall they hire any agents or solicitors: Provided further, no such association of persons shall ever make any

levies or collect any money from its members except to pay for losses on property or lives insured, and such expenses as are herein provided for.

ARTICLE V.

KINDS OF INSURANCE.

ORGANIZATION OF COMPANIES.

Section 1. (Ch. 77, 1917.) **Insurance classified.**—An insurance corporation may be formed to insure the following purposes:

1. Fire and marine insurance.—Against loss or damage by fire, lightning, wind storm, cyclones, tornadoes, hail or earthquakes; water from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, and water pipes; and against accidental injuries to such sprinklers, pumps or other apparatus; against loss or damage arising from the prevention or suspension of rent or use and occupation of any building, plant or manufacturing establishment due to the hazard or peril insured against; upon vessels, boats, cargoes, goods, merchandise, freight, and other property against loss or damage by marine risks and the risks of transportation and navigation upon salt water and the high seas, and the risks of lake, river, canal and inland transportation and navigation; and upon automobiles, whether stationary or being operated under their own power.

2. Life insurance.—Upon lives of persons, including endowments and annuities, and every insurance pertaining thereto and disability benefits.

3. Accident insurance.—Against bodily injury or death by accident and against disablement resulting from sickness and every insurance pertaining thereto, including quarantine and identification.

4. Fidelity insurance.—Guaranteeing the fidelity of persons holding places of public or private trust; guaranteeing the performance of contracts other than insurance policies, or guaranteeing and executing all bonds, undertakings and contracts of suretyship.

5. Liability insurance.—Against loss or damage resulting

from accident to, or injury, fatal or non-fatal, suffered by an employee or other person for which the insured is liable.

6. Plate glass insurance.—Against breakage of glass, whether local or in transit.

7. Boiler and machine insurance.—Upon steam boilers and upon pipes, engines and machinery connected therewith and operated thereby against explosion and accident and against loss or damage to life, person or property resulting therefrom.

8. Burglary insurance.—Against loss by burglary, house-breaking or theft.

9. Sprinkler insurance.—Against loss or damage by water, to any goods or premises, arising from breakage or leakage of sprinklers or water pipes.

10. Credit insurance.—Guaranteeing either by agreement to purchase uncollectible debts, or otherwise to insure against loss or damage from the failure of persons indebted or to become indebted to the insured, or to meet existing or contemplated liabilities.

11. Title insurance.—Guaranteeing owners of property or others interested therein against loss by incumbrance or defective titles, or adverse claim to title, either together with or without examination of title, or furnishing information relative thereto.

12. Against loss or legal liability for loss resulting from accident or injury, fatal or non-fatal, because of damage to property or person caused by the use of teams or vehicles, whether by fire, accident or collision, or by explosion of any engine, tank, boiler, pipe or tire of any vehicle, and including insurance against theft of the whole or any part of any vehicle. The term vehicle, as herein used, includes in addition to its ordinary meaning, elevators, automobiles, traction engines, motorcycles and bicycles, but does not include ships, vessels, boats, nor railroad rolling stock: Provided, that when such legal liability includes injury to person the company, except mutuals, and assessment associations, entering into said contract shall be capitalized at not less than one hundred thousand dollars (\$100,000.00).

13. Domestic animals.—Against loss, death or damage to

domestic animals, and to furnish the service of a veterinary surgeon for such animals.

14. Miscellaneous insurance.—Upon any risk not included within any of the foregoing classes and which is a proper subject for insurance, not prohibited by law or contrary to sound public policy, to be determined by the department of trade and commerce.

Sec. 2. (3216) Class or classes of insurance authorized.—Companies may be formed upon the stock or mutual plan to transact any kind of insurance authorized by the next preceding section, or upon the assessment plan to transact the kinds of insurance described in subdivisions one, three, four and six thereof, or upon the fraternal plan to transact the kind of insurance described in subdivision two thereof. The liability of a member of a mutual company shall be limited to the premium stated in the policy.

Any assessment association organized to insure property may, in its by-laws, limit the liability of its members for assessment, for any one year, to not less than one and one-half times the regular rate charged by stock companies for like insurance, which upon dwelling houses and farm properties insured against loss by fire and lightning shall not be less than one-half of one per cent per year after the first assessment. If the amount collected in any one year including the amount in the contingent funds, be insufficient to pay all losses sustained and expenses incurred during that year, then the members sustaining losses shall receive their proportionate share of such funds in full satisfaction of their losses. Every by-law limiting the liability shall contain the above provision for pro-rating losses and shall be printed on the back of each policy or certificate of membership.

Sec. 3. (3217) Purposes formed for.—No company shall be formed for the purpose of engaging in any other kinds of insurance than that specified in some one of the subdivisions of section 1 of this article, or more kinds of insurance than are specified in a single subdivision, except that a company may be formed:

1. For the purpose specified in subdivisions one and twelve,
or

2. For the purposes specified in subdivisions two and three,
or

3. For any or all the purposes specified in subdivisions three to fourteen, both inclusive, except subdivision ten.

Contracts for each of the kinds of insurance specified in the subdivisions of section 1 of this article shall be in separate and distinct policies, except that the same policy may embrace risks specified in subdivisions two and three, or those embraced in subdivisions three and five. Companies electing to issue policies under subdivision twelve may embrace in one policy also risks under subdivisions three and five. Contracts for hail insurance on growing crops shall be written in separate and distinct policies.

Sec. 4. (3218) Incorporation of companies.—Nine or more persons may form an insurance corporation. They shall execute articles of incorporation and submit them to the department of trade and commerce for examination, and if approved and found by it to be in accordance with the laws of this state, the department of trade and commerce shall so certify. When such articles are thus approved, they shall be filed in the office of the secretary of state, and of the county clerk of the county in which the principal office of the company is to be established, and a copy thereof filed in the office of the department of trade and commerce. The articles shall not be considered filed until they have been filed in each of said offices as above provided. Within thirty days after receiving the certificate of authority to transact business, and within four months after filing its articles as aforesaid, such corporation shall publish a notice in some legal newspaper, which notice shall contain the same information, as far as practicable, as that required under the general incorporation laws of this state.

Sec. 5. (3219) Board of directors—how elected.—In the first instance the board of directors shall be elected by the incorporators or named in the articles, and thereafter by the stockholders or policy holders at the annual meeting. The board of directors shall consist of not less than five nor more than twenty-one persons, all of whom must be citizens of the United States, and a majority of them must be citizens of the state of Nebraska. No person shall hold the office of director unless he is a stock-

holder, if in a stock company; or a policy holder, if in a mutual company or assessment association. Unless otherwise provided in the articles of incorporation, the board of directors shall make all by-laws.

Sec. 6. (3220) Articles of mutual companies.—The articles of a mutual company or an assessment association shall provide that every person, corporation, association or partnership insured shall be a member thereof and have one vote.

Sec. 7. (3221) Mutual companies may borrow money.—Any mutual company may borrow money without discount or the payment of commission to defray the reasonable expenses of its organization and to provide the amount stated in subdivision two of section ten of this article, and may issue its notes therefor, to be known as surplus notes, which shall fully recite the purpose for which the money was borrowed. Except as herein provided, such notes and indebtedness shall not be a liability or claim against any of the assets of the company. The principal shall be paid only when the amount of the surplus of the company over all liabilities is double that of such principal then unpaid. The interest shall only be payable from the surplus, and shall not exceed such sum as may be fixed, nor in any case ten per cent per annum. On a dissolution of the company the principal and interest shall be payable from the surplus. The amount thereof outstanding, with the unpaid interest, shall be stated in each annual report. The corporation shall have the right to make such repayment whenever it shall be able to do so.

Sec. 8. (3222) Limitation in articles.—The articles of a mutual company or an assessment association may limit:

1. The insurance to specified kinds or classes of property, lives, individuals or liabilities within any subdivision of section 1 of this article.

2. The territory within which insurance shall be granted, and

3. They shall provide the manner in which policy holders of a mutual company shall participate in the profits of the company.

Sec. 9. (3223) Capital of stock company.—No domestic

stock insurance company shall transact the business of insurance in this state unless:

1. It has a capital stock actually paid in cash or invested as provided by law of at least two hundred thousand dollars for the insurance specified in subdivision fourth, fifth, tenth or eleventh of section 1 of this article, and at least one hundred thousand dollars for the insurance specified in subdivision first, second, eighth, thirteenth or fourteenth of said section 1 of this article, and at least fifty thousand dollars for the insurance specified in any other one subdivision of said section, and in each case a surplus equal to one-fourth of its capital stock; and

2. With an additional fifty thousand dollars capital stock for the insurance mentioned in any other one subdivision of said section which may be transacted by such company: Provided, in all cases where a company has less than two hundred and fifty thousand dollars of capital stock and transacts more than one kind of insurance, it shall have a capital stock equal to the combined minimum capital stock required or separate companies transacting the same kind of insurance.

Sec. 10. (3224) Number of policies required to begin business.—No domestic mutual insurance company hereafter organized shall begin to transact the business of insurance until:

1. It shall issue simultaneously policies upon two hundred or more risks, each within the maximum single risk prescribed in the next following section; and

2. It shall hold a fund, in cash or invested as provided by law, equal to ten times the maximum single risk to be assumed except that if organized to do the business mentioned in subdivision 12 of section 1 of this article, only, it may begin business when it shall hold a fund in cash, or invested as provided by law, equal to five times the maximum single risk to be assumed, which fund shall be used for the payment of losses only, and cannot be repaid except as provided in section 7 of this article; and

3. It shall have received in cash one annual premium upon each risk outstanding.

Sec. 11. (3225) Maximum single risk.—Except as otherwise provided by law the maximum single risk shall be three

times the average policy, or one-eighth of one per centum of the insurance in force, or in a stock company ten per centum of its capital stock, whichever sum is the greater. Upon the business mentioned in subdivision 4 of section 1 of this article, twenty-five per cent of the paid-up capital and the business mentioned in subdivision 13 of said section, one-twentieth of the paid-up capital. Any reinsurance, taking effect simultaneously with the policy, shall be deducted in determining such maximum single risk. The minimum number of risks outstanding shall be two hundred, each within the maximum single risk prescribed herein.

Sec. 12. (3226) Liability of incorporators and directors.—The original incorporators, until the election of directors, and thereafter the directors, shall be jointly and severally liable for any losses incurred during the time or times hereinafter mentioned:

1. Upon any policies written, issued or delivered during any time when the risks outstanding shall be below the minimum number prescribed by the next preceding section; and

2. For the excess of any policy above the maximum single risks prescribed by said section during the time that such policy exceeds such maximum single risks; and

3. For any losses occurring upon any new risk taken after the expiration of the period designated by the department of trade and commerce in accordance with sections 2 and 3 of article III in which to make good any deficiency; and

4. For all debts and liabilities contracted prior to the time the company was an admitted company.

Sec. 13. (3227) Application of requirement of surplus.—The requirements of a surplus as required in section 9 of this article shall only apply to domestic insurance companies hereafter organized and commencing to transact the business of insurance, and such company may use such surplus in establishing the company in business without impairment of the company.

Sec. 14. (3228) Reinsurance or consolidation procedure.—Any company, association or society hereinafter called "company" organized or authorized to transact the business of insurance under the laws of this state may, by contract of reinsurance or consolidation, assume the risks of any other company doing

a similar business, or reinsure its risks and business only on the following conditions:

1. Both of the companies which propose to enter into such reinsurance contract, shall be, upon the date of reinsurance, duly authorized under the provisions of this article to transact the business of insurance in this state, and the department of trade and commerce shall have found that such reinsurance or consolidation can in no way impair the solvency of the company which proposes to assume and reinsure the business and affairs of the company contemplating reinsurance and retirement, and that such reinsuring company is competent and prepared to carry out such contract of reinsurance.

2. The contract of reinsurance or consolidation with all matters relating thereto, shall be submitted to the department of trade and commerce for examination and orders thereon. The department of trade and commerce upon examination, if satisfied that the interests of the policy holders of such company contemplating reinsurance and retirement are properly protected, and that no reasonable objection exists to such contract, may approve and authorize the proposed reinsurance or consolidation, or may modify or change the terms and conditions thereof, as may seem best for the interests of said policy holders; and the department of trade and commerce shall make such orders with reference to the distribution and disposition of the surplus assets of said company as shall be just and equitable to said policy holders.

Such consolidation or reinsurance may then be approved by said department of trade and commerce and it shall be the duty of the department of trade and commerce to guard the interests of the policy holders of such company proposing to reinsure and retire.

3. The contract of reinsurance or consolidation shall be approved, if a stock company, by a majority vote of the board of directors thereof duly cast and recorded in the minutes of the meeting of the board; and if a mutual company or assessment association, by a majority vote of all the members of the company which purposes to reinsure and retire, present in person or by proxy and voting at an annual meeting, or a special meet-

ing called for that purpose upon a printed notice of such meeting, which shall contain the purpose of such company to reinsure and retire, a brief statement of the substance of the contract of reinsurance and the approval of the department of trade and commerce, together with its orders as to the disposition of its surplus assets, which notice shall be mailed to each one of the members of such company, directed to his last known address, at least thirty days prior to the day fixed for such meeting. When the members of such company, if a mutual company, or an assessment association, and the directors, of a stock company shall have so voted to reinsure and retire, its officers and the officers of the company which proposes to assume the risks and obligations thereof, may enter into and consummate the contract for reinsurance as submitted and approved, and shall carry out the orders of the department of trade and commerce relating to the disposition of the surplus and assets of such retiring company, and do and perform all other acts necessary to the final and complete consummation of such consolidation or reinsurance. The actual and reasonable expenses and costs incident to proceedings under the provisions of this section may be paid by the company, or companies so consolidating or reinsuring, and an itemized and verified statement of such expenses, together with proper vouchers for each of the items thereof, shall be filed with the department of trade and commerce. No officer of any such company, nor any employee thereof, or of the state, shall receive any compensation, gratuity, employment, or other promise or thing of value, directly or indirectly, for in any manner aiding, promoting or assisting in such reinsurance or consolidation. Any company or association organized under this article to insure property, may reinsure the individual risks of other companies of the same kind and class.

Sec. 15. (3229) **Amendment of articles.**—Any domestic company, association or society, hereinafter called “company”, may change its articles of incorporation and methods of doing business, but only in the following manner, and upon the following conditions:

1. The board of directors of such company shall adopt by two-thirds vote of all the directors thereof, amended articles of incorporation.

2. Such amended articles with all matters relating thereto, shall be submitted to the department of trade and commerce for examination and orders thereon. If satisfied that the interests of the policy holders of such company, and all concerned, are properly protected and that no reasonable objections exist to such amended articles, the department of trade and commerce may approve the same, or it may modify or change them as it may deem best for the interest of those affected. The department of trade and commerce shall also make such orders with reference to the distribution of any existing or future surplus of such company as may be just and equitable to the policy holders. The department of trade and commerce shall duly safeguard the interests of all parties affected, and especially the interests of the policy holders.

3. If the department of trade and commerce proposes any changes or modifications of the amended articles proposed, they shall be in turn submitted to, and be adopted by a two-thirds vote of all the directors of such company. Such amended articles as originally adopted, or readopted, as the case may be, shall then be submitted to the stockholders or members of the company for approval at a regular meeting or a special meeting thereof, called for that purpose, notice of which and a copy of the proposed amended articles shall be sent by mail to the last known address of each person entitled to vote at such meeting, at least thirty days prior thereto. There shall also be inclosed with such notice a copy of the approval of the department of trade and commerce and its order as to the disposition and distribution of the surplus assets of such company. If such amended articles are approved by a two-thirds vote of all the stock of the company or by a vote of two-thirds of all the members voting at such meeting, in person or by proxy, if a mutual or assessment company, then they shall be filed in the same offices as if they were original articles, and the same notice shall be published.

4. If any such company, operating upon what is known as either a mutual or assessment plan, desire to change to a stock basis, it shall, in addition to the above and foregoing requirements, comply with the following conditions:

1. The board of directors of such company shall submit,

with its amended articles of incorporation as provided in the second paragraph of this section, a comprehensive plan of such change specifically setting forth the following information:

(a) a true and complete statement of the several funds and all of the tangible property and assets of such company, and the fair and actual cash value of each item thereof;

(b) the number of members of such company and the fair actual value of the surplus of each member in the property and assets of such company;

(c) the number of shares of capital stock to be issued under the new plan, the amount of each share, and the manner of converting the interest in the surplus of each member of the company into shares of the company under the stock plan;

(d) the manner of compensating members of the company who refuse or fail to convert their interests in the surplus in the company into stock under the new plan, and the amount of such compensation;

(e) the amount of the new capital for which each member may subscribe, and how and when the same shall be payable. Provided, each member shall have the full right to subscribe at par for his proportionate share of the new stock to be issued.

2. If satisfied that no reasonable objections exist to such amended articles and the plan proposed for such change to a stock basis, the department of trade and commerce may approve the same, or it may propose modifications or changes in said amended articles or proposed plan for changing to a stock basis as in its judgment will safeguard the best interests of all concerned, and may make orders relating thereto as it shall deem just and equitable.

3. If changes in such amended articles are proposed by the department of trade and commerce, they shall be referred to the board of directors of said company for readoption by a two-thirds vote of the members thereof. On approval of such amended articles by the board of directors and the department of trade and commerce, the same shall be submitted to the members of

the company for approval and ratification at a regular annual or special meeting called for that purpose. Notice of the time and place of such meeting, and the proposition to submit said amended articles and proposed plan of change to a stock basis, stating the substance of such amended articles and the plan proposed in full for making the change to a stock basis, with the approval of the department of trade and commerce shall be sent by the proper officer of the company, to each person entitled to vote at such meeting, at least thirty days prior thereto, through the mail directed to his last known address.

If such amended articles and plan are ratified and approved by a two-thirds vote of all the members voting at such election, either in person or by proxy, the same shall be duly adopted, and on the same being duly filed and notice thereof published as required by law in cases of original articles of incorporation, the same shall be deemed effective and the company shall be deemed duly incorporated and shall then open books for the members to subscribe to the stock of such new company, which books shall remain open for at least sixty days after said election resulting in favor of such proposed change, and each member shall have the full right to subscribe at par for his proportionate share of the new stock to be issued. Such subscription for stock shall be duly made in writing, and filed with the proper officer of the company, in accordance with a plan outlined to be sent with the notice of election to approve and ratify such change. All stock not duly subscribed for at the end of sixty days after the books shall have been opened shall be at the disposal of the board of directors, in accordance with a plan to be contained in the proposed plan submitted to the department of trade and commerce and the members of the company; Provided, no stock shall be issued or sold for less than par value thereof, in money, and each subscriber for stock shall pay the same price. When all the above provisions have been complied with, such company shall enjoy the same rights and be subject to the same liabilities as if it had been originally incorporated under this article. All officers and directors shall serve through their respective terms but their successors shall be elected and serve as provided in the amended articles and by-laws. Such change shall in no way prejudice or impair any pending action or right previously ac-

quired, or annul or change any existing contract of such company.

ARTICLE VI.

RESERVES.

Section 1. **(3230) Fire—legal reserve.**—In ascertaining the condition of a fire insurance company it shall be allowed as assets only such investments, cash, and accounts as are authorized by the laws of this state at the date of the examination, but premiums, notes not past due, and unpaid premiums on policies written within three months, shall be admitted as available resources. In ascertaining its liability, there shall be charged in addition to the capital stock, and all outstanding claims, a sum equal to forty per cent of the total premium charged on the policies in force: Provided, domestic fire insurance companies doing business on the mutual plan with a stipulated premium, shall reserve an amount equal to forty per cent of the total unearned premiums on all their policies in force.

Sec. 2. **(3231) Life—legal reserve.**—The Department of Trade and Commerce shall annually make valuation of all outstanding policies, additions thereto, unpaid dividends, and all other obligations of every life insurance company doing business in this state; and all such valuations made by it, or by its authority, shall be according to the standard of valuation adopted by the company, which standard shall be stated in its annual report. Such standard of valuation, whether on the net level premium, preliminary term, any modified preliminary term, or select and ultimate reserve basis, for policies issued after the passage of this article shall be according to the American Experience or Actuaries' Table of Mortality, with not less than three and not more than four per cent compound interest. The Department of Trade and Commerce may vary the standard of valuation in particular cases of invalid lives and other extra hazards. It may value policies in groups, use approximate averages for fractions of a year, and assume as accurate the valuations of the department of insurance of any other state or country if the insurance officer of such other state or country likewise accredits the valuation made by the Department of Trade and

Commerce of this state. When the preliminary term basis is used it shall not exceed one year. Insurance against total and permanent mental or physical disability resulting from accident or disease, or against accidental death, combined with a policy of life insurance, shall be valued on the basis of the mean reserve, being one-half of the additional annual premium charged therefor.

The legal minimum standard for the valuation of annuities shall be "McClintock's Table of Mortality Among Annuitants", or the American Experience Table of Mortality, with compound interest at three and one-half per cent per annum, but annuities deferred ten or more years, and written in connection with life or term insurance, shall be valued on the same mortality table from which the consideration or premiums were computed, with compound interest not higher than three and one-half per cent per annum.

The legal standard for the valuation of industrial policies shall be the American Experience Table of Mortality, with compound interest at not less than three nor more than three and one-half per cent per annum: Provided, any life insurance company may voluntarily value its industrial policies written on the weekly payment plan according to the "Standard Industrial Mortality Table" or the "Sub-Standard Industrial Mortality Table."

The standards adopted shall not be abandoned without the consent of the Department of Trade and Commerce first being obtained in writing.

Sec. 3. (3232) Investments allowed.—In ascertaining the condition of any life insurance company it shall be allowed as assets only such investments, cash and accounts as are authorized by the laws of this state, or of the state or county in which it is organized at the date of examination; and there shall be charged against it as liabilities in addition to the capital stock, all outstanding indebtedness of the company, and the premium reserve on policies and additions thereto, in force, computed according to the table of mortality and rate of interest prescribed in the next preceding section.

Sec. 4. (3233) Reserve—accident and health.—In ascer-

taining the condition of a domestic accident and health insurance company, or either of them, it shall be allowed as assets only such investments, cash and accounts as are authorized by the laws of this state at the date of the examination, but notes of policy holders not past due, and not for a longer period than four months from the date of the policy for which they are given, and unpaid premiums on policies written within three months, may be admitted as available resources. In ascertaining its liabilities, there shall be charged, in addition to the capital stock and all outstanding claims, a sum equal to twenty-five per cent, of the total renewal premium charged on the policies in force.

Sec. 5. **(3234) Liability reserve.**—The indebtedness for outstanding losses under insurance against loss or damage resulting from accident to, or injuries suffered by an employee or other person, and for which the insured is liable, and under insurance against loss from liability on account of the death of, or injury to an employee not caused by the negligence of the employer, shall be determined as follows: Each corporation which writes policies covering any of said kinds of insurance shall include in the annual statement required by section 16 of article IV, a schedule of its experience thereunder, in the United States and foreign countries in the case of corporations organized in the United States and in the United States only in the case of corporations organized outside of the United States, giving each calendar year's experience separately, and crediting or charging each item to the year in which the policy to which it relates was written, as follows:

1. The earned premiums on all such policies written during the period of ten years immediately preceding the date as of which the statement is made, being the gross premiums on all such policies including excess and additional premiums and premiums in course of collection, less return premiums and premiums on canceled policies, and less the unearned premiums on policies in force as shown in such annual statement;

2. The amount of all payments of whatsoever nature made by reason or on account of injuries covered by such policies written during said period. This amount shall include medical and

surgical attendance, payments to claimants, legal expenses, salaries and expenses of investigators, adjusters, and field men, rents, stationery, telegraph and telephone charges, postage, salaries, and expenses of office employees, home office expenses, and all other payments made on account of such injuries, whether such payments are allocated to specific claims or are unallocated;

3. The number of suits being defended at the date as of which the statement is made under policies written during said period, except suits in which liability is not dependent upon negligence of the insured, and a charge of seven hundred and fifty dollars for each suit;

4. The number of deaths for which the insured are liable without proof of negligence, covered by policies written during the same period, and not paid for at the date as of which the statement is made, and a charge of the amount necessary to pay for such deaths;

5. The number of unpaid claims at the date of which the statement is made, on account of non-fatal injuries for which the insured are liable without proof of negligence, covered by policies written during said period, and a charge equal to the present value of the estimated future payments;

6. The loss ratio determined from the ~~foregoing as to each~~ year separately, using as the divisor the earned premiums shown in item No. 1 and as the dividend the amount of payments shown in item No. 2 plus the amounts charged in items Nos. 3, 4 and 5.

7. The number of suits being defended at the date as of which the statement is made under policies written more than ten years prior to such date, except suits in which liability is not dependent upon negligence of the insured;

8. The number of deaths for which the insured are liable without proof of negligence, covered by policies written more than ten years prior to the date as of which the statement is made, and not paid for at such date;

9. The number of unpaid claims at the date as of which the statement is made on account of non-fatal injuries for which the insured are liable without proof of negligence, covered by policies written more than ten years prior to such date.

All unallocated payments in item No. 2 made in a given calendar year subsequent to the first four years in which a corporation has been issuing such policies, shall be distributed as follows: Thirty-five per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, ten per centum to the policies in the second year preceding, ten per centum to the policies written in the third year preceding, and five per centum to the policies written in the fourth year preceding; and such payments made in the first four calendar years in which a corporation has been issuing such policies shall be distributed as follows: In the first calendar year one hundred per centum shall be charged to the policies written in that year, in the second calendar year fifty per centum shall be charged to the policies written in that year, and fifty per centum to the policies written in the preceding year, in the third calendar year forty per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year and twenty per centum to the policies written in the second year preceding; and in the fourth calendar year thirty-five per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, fifteen per centum to the policies written in the second year preceding, and ten per centum to the policies written in the third year preceding; and a schedule showing such distribution shall be included in such annual statement. Each such corporation shall be charged with indebtedness for outstanding losses upon such policies determined as follows:

10. For all suits being defended under policies written more than ten years prior to the date as of which the statement is made, except suits in which liability is not dependent upon negligence of the insured, one thousand dollars for each suit;

11. For all suits being defended under policies written more than five years and less than ten years prior to the date as of which the statement is made, except suits in which the liability is not dependent upon negligence of the insured, seven hundred and fifty dollars for each suit;

12. For all deaths for which the insured are liable without proof of negligence covered by policies written more than five

years prior to the date as of which the statement is made, the amount necessary to pay for such deaths;

13. For all unpaid claims on account of non-fatal injuries for which the insured are liable without proof of negligence under policies written more than five years prior to the date as of which the statement is made, the present value of the estimated future payments;

14. For all policies written in the five years immediately preceding the date as of which the statement is made an account determined as follows: Multiply the earned premiums of each of such five years, as shown in item No. 1 by the loss ratio ascertained as in item No. 6 on all policies written in the first five years of the said ten year period, using as the divisor the sum of the earned premiums shown in item No. 1 for such first five years, and as the dividend the sum of the payments shown in item No. 2 for such first five years, plus the sum of the charges in items Nos. 3, 4, and 5 for such first five years, but the ratio to be used shall in no event be less than fifty per centum at and after December 31st, 1913, nor less than fifty-one per centum at and after December 31st, 1914, nor less than fifty-two per centum at and after December 31st, 1915, nor less than fifty-three per centum at and after December 31st, 1916, nor less than fifty-four per centum at and after December 31st, 1917, nor less than fifty-five per centum at and after December 31st, 1918; and from the amount so ascertained in each of the last five years of said ten year period, deduct all payments made under policies written in the corresponding year, as shown in item No. 2, and the remainder in the case of each year shall be deemed the indebtedness for that year: Provided, however, if the remainder in the case of any year of the first three years of the five years immediately preceding the date as of which the statement is made, shall be less than the sum of the three following items for that year at that date, (a) the number of suits, except suits in which liability is not dependent upon negligence of the insured, being defended under policies written in that year, and a charge of seven hundred and fifty dollars for each suit, (b) the amount necessary to pay for all deaths for which the insured are liable without proof of negligence, covered by policies written in that year, and (c) the present value of estimated unpaid claims on

account of non-fatal injuries for which the insured are liable without proof of negligence covered by policies written in that year than the sum of said items, (a), (b), and (c) shall be the indebtedness for that year.

A corporation which has been issuing such policies for a period of less than ten years shall nevertheless include in its annual statement a schedule as hereinbefore required, for the years in which it shall have issued such policies, and shall be charged with an indebtedness determined in the same manner; but in determining the indebtedness for policies written in the five years immediately preceding the date as of which the statement is made, the minimum ratios hereinbefore prescribed shall be used, subject to the same deductions and provisions as in the case of corporations that have been issuing such policies for ten years or more.

Sec. 6. (3235) Same—all other companies.—In ascertaining the assets, liabilities, and financial condition of all other insurance companies, not otherwise provided for by the provisions of this article, the department of Trade and Commerce shall allow as assets only such investments, cash and accounts, as are authorized by the existing laws of this state, or under the existing laws of the state or country under which such company is organized and which investments it may approve or reject, at the date of the investigation, and in estimating the liabilities there shall be added, in addition to the capital stock, all outstanding claims, and a sum equal to the unearned premiums on the policies in force, calculated on the gross sum without any deductions on any account, charged to the policy holder on each respective risk from the date of the issuance of the policy.

If the department finds this rule to be impracticable in ascertaining the condition of certain kinds of insurance companies it shall formulate such rules as it shall deem proper and efficient and consistent with law, having due regard to such rules as may be used in other states or approved by the national convention of insurance commissioners or superintendents. Provided, in relation to the affairs of any foreign company, it may, in lieu of such examination and investigation, accept a certificate of the insurance commissioner or superintendent of such state or district as to its condition.

Sec. 7. (3236) **When actual premium less than net premium.**—When the actual premium hereafter charged for an insurance by any life insurance company doing business in this state is less than the net premium for such insurance computed according to the table of mortality and rate of interest prescribed in this article, such company shall be charged as a separate liability with the value of an annuity, the amount of which shall equal the difference between such premium and the term of which, in years, shall equal the number of future annual payments due on such insurance at the date of the valuation.

ARTICLE VII.

STANDARD PROVISIONS.

Section 1. (3237)—**Policies—contents—fire.**—No fire insurance company shall issue any fire insurance policy covering any property or interest therein in this state other than on a form prescribed by the department of trade and commerce as nearly as practicable in the form known as the New York standard as now or may be hereafter constituted, except as follows:

1. A company may print on or in its policy its name, location, and date of incorporation, plan of operation, whether stocks, mutual or assessment; and if it be a stock company, the amount of its paid-up capital stock, the names of its officers and agents, the number and date of the policy, and if it is issued by an agent, the words:

“This policy shall not be valid until countersigned by the duly authorized agency of the company at.....”

2. A company may print or use in its policies printed forms of descriptions and specifications of the property insured.

3. A company insuring against damage by lightning or tornado, may print in the clause enumerating the perils insured against the additional words, “also any damage by lightning or tornado, whether fire ensues or not”, and in the clause providing for the apportionment of loss in case of other insurance the words, “whether by fire, lightning or tornado.”

4. A domestic company may print in its policies any provisions which it is authorized or required by law to insert there-

in, and any foreign or alien company may, with the approval of the department of trade and commerce print any provisions required by its charter or deed of settlement, or by the laws of its charter, or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state; but the department of trade and commerce shall not require any provision which modifies the contract of insurance in such a way as to affect the question of loss to be appended to the policy by an endorsement or rider as hereinafter provided.

5. The blanks in said standard form may be filled in, in print or writing.

6. A company may print upon policies issued in compliance with the preceding provisions of this section, the words, "Nebraska Standard Policy."

7. A company may write upon the margin or across the face of the policy, or write or print in type not smaller than nonpareil, upon a slip, slips, rider or riders to be attached thereto, provisions adding to or relating to those contained in the standard form; and all such slips, riders, endorsements and provisions must be signed by the officers or agents of the company so using them.

8. If the policy be made by a mutual assessment or other company having special regulations lawfully applicable to its organization, membership, policies or contracts of insurance, such regulations shall apply to and form a part of the policy as the same may be written or printed upon, attached or appended thereto.

9. Policies of assessment associations may be issued with such modifications as shall be approved in writing by the department of trade and commerce. They shall have also printed therein a copy of the articles of incorporation and the by-laws of the association issuing the policy.

10. Combination policies including loss by fire, lightning, hail and tornado.

Sec. 2. (3238) **Same—life.**—No policy of life or endowment insurance, except policies of industrial insurance or where the premiums are payable monthly or oftener, shall be issued or

delivered in this state unless it contains in substance the following provisions:

1. A provision that all premiums shall be payable in advance either at the home office of the company or to any agent of the company upon delivery of a receipt signed by one or more of the officers who shall be named in the policy; and

2. A provision that the insured is entitled to a grace of one month within which the payment of any premium after the first year may be made, subject, at the option of the company to an interest charge not in excess of six per cent per annum for the number of days of grace elapsing before the payment of the premium, during which period of grace the policy shall continue in force; but in case the policy becomes a claim during the said period of grace before the overdue premium or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, with interest or any overdue premium, may be deducted from any amount payable under the policy in settlement; and

3. A provision that the policy shall constitute the entire contract between the parties; but if the company desires to make the application a part of the contract, it may do so: Provided, a copy of such application shall be endorsed upon or attached to the policy when issued, and in such case the policy shall contain a provision that the policy and the application therefor shall constitute the entire contract between the parties; and

4. A provision that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application, and a copy of such application shall be endorsed upon or attached to the policy when issued; and

5. A provision that the policy shall be incontestable after two years from its date, except for non-payment of premiums, and except for violations of the conditions of the policy relating to naval and military service in time of war; and

6. A provision that if the age of the insured has been misstated, the amount payable under the policy shall be such as the premium paid would have purchased at the correct age; and

7. A provision that the policy shall participate in the surplus of the company and that, beginning not later than the end of the third policy year, the company shall annually ascertain and apportion the amount of divisible surplus to which all such policies, as a separate class, are entitled, which amount shall be carried as a distinct and separate liability in favor of such policies. The insured, under any annual dividend policy, shall have the right each year to have the dividend arising from such participation paid in cash, and if the policy shall provide other dividend options, it shall further provide that if the insured shall not elect any such other options, the dividends shall be paid in cash; but such participation and its distribution may, by contract, be deferred to a fixed or specified time, not exceeding twenty years. Upon written request of the insured the company shall furnish him with a statement of the amount of the surplus provisionally ascertained or set aside on such policy and held awaiting distribution at the expiration of the deferred dividend period; and

8. A provision that after three full years' premiums have been paid, the company at any time, while the policy is in force will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a specified rate of interest not exceeding six per cent per annum, a sum equal to, or at the option of the owner of the policy, less than the reserve at the end of the current policy year on the policy and on any dividend additions thereto; specifying the mortality table and the rate of interest adopted for computing such reserve, less a sum not more than two and one-half per cent, of the amount insured by the policy and of any dividend additions thereto; and that the company will deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year which provision may further provide that such loan may be deferred for not exceeding six months after the application therefor is made. It shall be further stipulated in the policy that failure to repay any such advance, or to pay interest, shall not avoid the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure, nor until one month after

notice shall have been mailed by the company to the last known address of the insured and of the assignee if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance; and

9. A provision which, in event of default in premium payments after premiums shall have been paid for three years, shall secure to the owner of the policy, a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserves, less a sum not more than two and one-half per centum of the amount insured by the policy, and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy. Such provision shall stipulate that the policy may be surrendered to the company at its home office within one month from date of default, for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid, and may stipulate that the company may defer payment for not more than six months after the application therefor is made; and

10. A table showing in figures the loan values, if any, and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy, beginning with the year in which such values and options become available; and

11. A provision that if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and cancelled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest and the payment or reinstatement of any other indebtedness to the company upon such policy; and

12. A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof; and

13. In case the proceeds of a policy are payable in installments, or as an annuity, a table showing the amounts of the installments or annuity payments; and

14. A title on the face of the policy correctly describing the same.

Any of the foregoing provisions or portions thereof not applicable to single premiums or non-participating or term policies of twenty years or less shall to that extent not be incorporated therein; and any such policy may be issued or delivered in this state which in the opinion of the department of trade and commerce contains provisions on any one or more of the several foregoing requirements more favorable to the policy holder than hereinbefore required. The provisions of this section shall not apply to policies of reinsurance, nor to annuities and pure endowments, with or without return of premium, nor to policies issued or granted in exchange for lapsed or surrendered policies.

Sec. 3. (3239) Policy—prohibitions—life.—No policy of life or endowment insurance shall be issued or delivered in this state if it contains in substance:

1. A provision by which the policy shall purport to be issued, or to take effect, more than six months before the original application for the insurance was made, or

2. A provision by which the settlement at the maturity of any policy after the expiration of the contestable period thereof, shall be of less value than the amount promised on the face of the policy plus dividend additions, if any, less any indebtedness to the company on or secured by the policy, and less any premium that may, by the terms of the policy be deducted; or

3. If there is attached thereto or issued as a part thereof or in connection therewith any coupons or other evidence of indebtedness by whatever name called, which coupons or other evidence of indebtedness are to be used in reducing the premiums on the policies, or for the purchase of additional insurance or any benefit whatever, or which are to be redeemed by the company in cash under any circumstances, in the nature of a rebate on the premium; or

4. If any of the surrender values of the policy are based upon the premiums paid, rather than on the reserve computed

on the standard of valuations stated in the policy, which must be in accordance with the terms of this article, unless the policy shall state that the paid-up surrender values are based upon the premium rather than on the reserve, in which case they may be based on the premium paid.

Sec. 4. (3240) **Policy—contents—accidents.**—No policy of insurance against loss or damage from disease or by bodily injury by accident, or both, of the assured, shall be issued or delivered in this state until the table of rates or manual of risks of the company has been filed at least fifteen days with the department of trade and commerce, nor shall such policy be so issued or delivered unless every portion, except the questions and answers in the application, is plainly printed in type not smaller than long primer or ten point type, nor unless there is printed on the first page thereof, and on its filing back, in type not smaller than eighteen point or great primer, a brief description of the policy; nor unless all exceptions and conditions are printed with the same prominence as the benefits to which such exceptions and conditions apply, nor unless it contains in substance the following provisions:

1. A provision that such policy, with a copy of the application thereof, if any, and of such other papers as may be attached thereto, or endorsed thereon, shall constitute the entire contract of insurance; except as it may be affected by any table of rates or classification risks filed by the company with the department of trade and commerce; and except that this provision shall not be required upon policies of industrial insurance, or where the premiums are payable monthly or oftener; and

2. A provision that no statement made by the applicant for insurance, which statement is not incorporated in or endorsed on the policy issued to such applicant, shall avoid the policy or be used in evidence, and no provision of the charter, constitution or by-laws shall be used in defense of any claims arising under any such policy unless such provisions are incorporated in full in the policy; but this requirement shall not be deemed to apply to the table of rates or manual of classification of risks of any corporation filed with the department of trade and commerce prior to the date of the occurrence of the injury or commencement of the sickness for which indemnity is claimed; and

3. A provision that specifies the time within which notice of accident or disability shall be given, which time shall not be less than ten days from the date of the accident or the beginning of the disability from sickness upon which claim is based. In case of accidental death, notice within the same time may be required, unless the notices herein specified may be shown not to have been reasonably possible; and

4. A provision that notice of a claim for indemnity shall be deemed sufficient when given to the officer or agent of the company specified in the policy; and

5. If a past due premium shall be accepted by the company, or by a branch office, or by an authorized agent of the company in the city, town or county in which the insured shall reside, such acceptance shall reinstate the policy in full as to disability resulting from accidental bodily injuries thereafter sustained, but shall only reinstate the policy as to disability from disease beginning more than fifteen days after the date of such acceptance; and

6. A provision that if the insured is injured or contracts disease after having changed his occupation to one classified by the company as more hazardous than that stated in the policy, or while he is doing any act pertaining to any occupation so classified, the company shall pay such proportion of the indemnities provided in the policy as the premium paid would have purchased at the rate, but within the limit fixed by the company, for such more hazardous occupation according to the company's rates and classification of risks filed with the department of trade and commerce in this state, at or prior to the date of issuance of the policy under which indemnity is claimed; and

7. A provision that the company will pay the benefits promised within sixty days of the receipt, by it, of due proofs of death or disability; and

8. A provision that the policy may be cancelled at any time by the company by giving the insured written notice of cancellation and paying in cash, or mailing by registered letter with proper postage affixed thereto, addressed to the insured at his usual or last known post-office address, a post-office or express company money order or bank draft, for the unearned portion

of the premium but that the cancellation shall be without prejudice to any claim arising on account of disability commencing prior to the date on which the cancellation takes effect.

Sec. 5. (3241) **Same—prohibitions—accident.**—No such policy insuring against accidental bodily injuries or disease or death shall be issued or delivered in this state if it contains in substance any of the following provisions:

1. A provision limiting the time within which proofs of claims shall be furnished to the company to a period less than ninety days from the date of death, dismemberment, or loss of sight from the termination of any other disability; or

2. A provision that such policy shall authorize the deduction of any premium or assessment from any indemnity payable under the terms of the policy, except such premium or assessment as may be due or covered by written order or note at the time of payment of the indemnity; or

3. A provision limiting the amount of indemnity to be paid to a sum less than the indemnity as stated in the policy and for which the premium has been paid: Provided, however, if the insured shall carry other insurance covering the same hazard, without giving written notice to the companies issuing the policies, then, and in that case, each company shall be liable only for such proportionate amount of benefits as the indemnity promised bears to the total amount of indemnity in all the policies covering such hazard, and for the return of such part of the premium paid as shall exceed the pro rata of the premium for the benefits paid.

Sec. 6. (3242) **Same—not applicable to blanket policies.**—Nothing in this article shall affect any general or blanket policy of insurance issued to any municipal corporation or department thereof, or to any corporation, copartnership, association or individual employer, police or fire department, underwriters' corps, salvage bureau or like associations or organizations, when the officers, members or employees or classes or departments thereof are insured against specified accidental bodily injuries or diseases while exposed to the hazards of the occupation or otherwise, for a premium intended to cover the risks of all persons insured under such policy; nor shall anything in the two next preceding sections

apply to or affect contracts of life insurance or contracts supplemental thereto which shall contain provisions intended to safeguard such life insurance against lapse, or that shall provide a special surrender value therefor in the event that the assured thereunder shall, by reason of accidental bodily injury or disease, be unable to continue the premium payments thereon.

Sec. 7. (3243) **What policy may contain.**—The policies of any insurance company not organized under the laws of this state may, if approved by the department of trade and commerce, contain any provisions which the law of the state, territory, district or country under which the company is organized, prescribed shall be in such policies when issued in this state, and the policies of any insurance company organized under the laws of this state may, when issued or delivered in any other state, territory, district or country, contain any provision required by the laws of the state, territory, district or country in which the same are issued, anything in this article to the contrary notwithstanding.

Sec. 8. (3244) **Validity of policies.**—A policy issued in violation of this article shall be held valid, but shall be construed as provided herein, and when any provision in such a policy is in conflict with any provision hereof, the rights, duties and obligations of the company, policyholder and the beneficiary shall be governed by the provisions of this article.

Sec. 9. (3245) **Penalty.**—Any company or association, or any officer, agent or broker thereof, which or who issues or delivers in this state, or to any citizen thereof, any policy in wilful violation of the provisions of this article, shall be punished by a fine not exceeding one hundred dollars for each offense; and the department of trade and commerce may revoke the license of any company, association, agent or broker thereof which or who violates any of the provisions of this article.

ARTICLE VIII.

GENERAL PROVISIONS COVERING FIRE COMPANIES.

Section 1. (3246) **Over-insurance unlawful.**—It shall be unlawful for any insurance company or any agent to knowingly issue any fire insurance policy upon property within this state for an amount which, with any existing insurance, exceeds the

fair value of the property or of the interest of the insured therein, or for a longer time than for five years, except as provided in section 11 of article X.

Sec. 2. (3247) **Same—insured.**—It shall be unlawful for any party having an insurable interest in property located in this state to knowingly procure any fire insurance policy upon his interest in such property, or for an amount which, with any existing insurance thereon, exceeds the fair value of his interest in the property.

Sec. 3. (3248) **Over-insurance—penalties.**—Every insurer who makes insurance upon any building or property or interest therein against loss or damage by fire, and every agent who issues a fire insurance policy covering any building or property or interest therein, and every insured who procures a policy of fire insurance upon any building or property or interest therein owned by him, is presumed to know the insurable value of such building or property or interest therein at the time such insurance is effected. Any insurer who knowingly makes insurance on any building or property or interest therein against loss or damage by fire in excess of the insurable value thereof, shall be fined in a sum not less than fifty dollars nor more than one hundred dollars. Any agent who knowingly affects insurance on a building or property or interest therein in excess of the insurable value thereof, shall be fined in a sum not less than fifteen nor more than twenty-five dollars.

Sec. 4. (3249) **Maximum risk.**—No insurance company authorized to transact business in this state, unless otherwise provided by this article shall, expose itself to a single hazard in the congested district of any city or town, for a larger amount than one-tenth of its paid-up capital in the United States, unless it provides for reinsurance of the excess simultaneously with the original contract; and if any insurance company violates this provision the department of trade and commerce may revoke its authority to transact business in this state.

Sec. 5. (3250) **Premium to be stated.**—Every fire insurance policy must state on its face the amount of the premium.

Sec. 6. (3251) **Adjuster to report violations.**—Every adjuster, who investigates any loss claim in this state, shall ascer-

tain whether there be double, or over-insurance upon such risk and the facts and circumstances so far as practical pertaining to the origin or happening of the hazard or peril insured against; and in case he believes fraud has been committed or attempted to be committed, he shall promptly report the premises to the department of trade and commerce, and in case of fire insurance, to the fire marshal as well.

Sec. 7. (3252) Guarantee surplus fund—special reserve fund.—Any domestic fire insurance company may create a guaranty surplus fund and a special reserve fund upon the adoption of a resolution by its board of directors at a regular meeting, and upon filing with the department of trade and commerce, a copy thereof, declaring their desire and intention to create such funds and to do business under this and the two following sections. The department of trade and commerce shall thereupon make, or cause to be made, an examination of such company, and it shall make a certificate of the result thereof, which shall particularly set forth the amount of surplus funds held by such company at the date of the examination, which under the provisions of this section may be equally divided between and set apart to constitute guaranty surplus and special reserve funds, which certificate shall be recorded in the department of trade and commerce. Thereafter all policies and renewals of policies issued by any such company shall have printed thereon, by it, a notice that they are issued under and in pursuance of this and the two following sections of this article, referring to the same by the numbers of sections, and all such policies and renewals shall be subject to the provisions of such sections. After the passage and filing of such resolution, the company shall not make, declare or pay in any form any dividend upon its capital stock exceeding seven per centum per annum thereon, and upon the surplus funds to be formed thereunder, until after its guaranty surplus fund and its special reserve fund shall have together accumulated to an amount equal to its capital stock; and until such funds shall together amount to a sum equal to its capital stock, the entire surplus profits of the company above such annual dividend of seven per centum shall be equally divided between and be set apart to constitute such guaranty surplus and special reserve funds, which funds shall be held and used as hereinafter

provided and not otherwise. Any such company which shall declare or pay any dividend contrary to the provisions herein contained, shall be deemed to have forfeited its charter. In estimating the profits of any such company for the purpose of making a division thereof between the guaranty surplus fund and the special reserve fund, until such funds shall together amount to a sum equal to its capital stock, there shall be deducted from the gross assets of the corporation, including for this purpose the amount of the special reserve fund, the sum of the following items:

1. The amount of all outstanding claims.
2. An amount sufficient to meet the liability of the company for the unearned premiums upon its unexpired policies, which shall be at least equal to the unearned premiums on policies having one year or less to run, and a pro rata proportion of the premiums received on the policies having more than one year to run, and shall be known as the reinsurance liability.
3. The amount of its guaranty surplus fund and its special reserve fund.
4. The amount of its capital.
5. Interest at the rate of seven per centum per annum upon the amount of its capital and of such funds for whatever time shall have elapsed since the last preceding cash dividend.

The balance shall constitute the net surplus of the company subject to the equal division between the funds as herein provided. When the company shall notify the department of trade and commerce, that it has fulfilled the requirements of this section, and that its guaranty surplus fund and its special reserve fund, taken together, equal its capital stock, it shall make an examination of the company and make a certificate of the result thereof; and thereafter such company may continue out of any subsequent profits of business, to add to such funds, either the whole or a part thereof, but when any addition is made to the special reserve fund, an equal sum shall be carried to the guaranty surplus fund.

Sec. 8. (3253) **Surplus fund invested.**—Such guaranty surplus fund shall be held and invested by such company in the same manner as its capital stock and surplus accumulations, and

shall be liable and applicable in the same manner as the capital of the company to the payment generally of its losses. Such special reserve fund, until it shall amount to a sum equal to one-half of the capital stock, shall be invested in the same manner as the capital of the company, and any additional sum added to such fund shall be invested in any securities in which the company is by law authorized to invest its capital or its surplus accumulations, and shall be deposited from time to time, as the same shall accumulate and be invested, with the department of trade and commerce.

Such special reserve fund shall be deemed a fund contributed by the stockholders to protect such company and its policy holders other than claimants for losses already existing or then occurred, in case of any extraordinary conflagration or conflagrations as hereinafter mentioned, and shall not be regarded as any part or portion of the assets of the company so as to be liable for any claim for loss by fire or otherwise except as herein provided.

Sec. 9. (3254) Purpose of funds.—When any extensive conflagration or conflagrations shall occur whereby the claims upon the company shall exceed the amount of its capital stock, and of the guaranty surplus fund hereinbefore provided, the company shall notify the department of trade and commerce of the fact, which shall then make or cause to be made an examination of the company, and shall issue its certificate in duplicate of the result, showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability, and all other assets.

One of such certificates shall be given the company and the other shall be recorded with the department of trade and commerce. Such special reserve fund shall be immediately held to protect all policy holders of the company other than such as are claimants upon it at the time, or such as become claimants in consequence of such conflagration or conflagrations.

The amount of such special reserve fund, and an amount equal to the unearned premiums of such company, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such company for the protection of policy holders other than such claimants, and for the further conduct of its business.

Such certificate of the department of trade and commerce shall be binding and conclusive upon all parties interested in the corporations whether stockholders, creditors or policy holders. Upon the payment to the claimants for losses or otherwise, existing at the time of, or caused by such general conflagration or conflagrations, of an amount to which they are respectively entitled in proportion to their several claims, or the full sum of the capital of the company and of its guaranty surplus fund, and of its assets, except only such special reserve fund and an amount of its assets equal to the liability of the company for unearned premiums, as so certified by the department of trade and commerce, such company shall be forever discharged from any and all further liability to such claimants and to each of them.

The department of trade and commerce shall, after issuing such certificate, upon the demand of the company, transfer to it all such certificates as shall have been deposited with said department by it as such special reserve fund. If the amount of such special reserve fund shall be less than fifty per centum of the full amount of the capital of the company, a requisition shall be issued by the department of trade and commerce upon the stockholders to make up the capital to that proportion of its full amount, in the manner now provided by law in the case of a company, with impaired capital. Any capital so impaired shall be so made up to at least the sum of two hundred thousand dollars. If the company, after such requisition, shall fail to make up its capital to at least such amount as herein directed, such special reserve fund shall be held as security and liable for all losses occurring upon policies of such company after such conflagration or conflagrations. If any amount greater than a sum equal to one-half of its capital stock, shall by such company, under the provisions of the two preceding sections have been deposited with the department of trade and commerce it shall retain of such securities a sum equal to one-half of the amount it shall so hold thereof in excess of such one-half of the capital stock, and transfer the balance thereof to the company as herein provided. The amount so transferred to the company shall, from the time of such transfer, if not less than two hundred thousand dollars, constitute the capital stock of the company for the further conduct of its business as hereinbefore provided. The sum

so retained by the department of trade and commerce shall thenceforth constitute the special reserve fund of the company, to which additions may be made as herein provided, and shall be held in the same manner, for the same purposes and under the same conditions as the original special reserve fund of the company was held. The company shall, in its annual statement to the department of trade and commerce, set forth the amount of such special reserve fund and of its guaranty surplus fund. If in consequence of the payment of losses by fire, or of the expenses of the business, or of the interest payable under the provisions of this article to stockholders, or from any cause, the guaranty surplus fund shall be reduced in amount below the amount of the special reserve fund, the directors of the company shall have the right, at their option, at the time of making any division of the net profits as herein provided, to carry a larger sum to the guaranty surplus fund than to the special reserve fund; but this privilege shall cease when the two funds are made equal in amount.

The policy registers, insurance maps, books of record and other books in actual use by the company in its business, are not to be considered as assets, but shall be held by it for its use in the protection of its policy holders not claimants for losses at the time of such general conflagration. If, after the accumulation of such special reserve fund, it shall appear upon examination by the department of trade and commerce that the capital of the company has, in the absence of any such extensive conflagration, become impaired, it shall order a call upon the stockholders to make up such impairment, and the board of directors may either comply with such order and require the necessary payments of the stockholders, or, at their option, they may apply for that purpose so much of said special reserve fund as will make such impairment good. No company doing business under this and the two preceding sections shall insure any larger amount upon any single risk than is permitted by law to a company possessing the same amount of capital, irrespective of the funds hereinbefore provided for.

ARTICLE IX.

GENERAL PROVISIONS COVERING HEALTH, AND ACCIDENT INSURANCE COMPANIES.

Section 1. (3255) **Who shall sign policies.**—All life insurance policies except industrial policies delivered in this state shall be signed by the secretary or assistant secretary; or, in their absence by a secretary pro tempore, and by the president or vice-president, or, in their absence, by two directors, of the company issuing the same.

Sec. 2. (3256) **Medical examination required.**—No life insurance company organized under the laws of, or doing business in this state, shall enter into any contract of insurance upon lives within this state, except in groups of one hundred or more, or industrial insurance, or when premiums are payable monthly or oftener, without having previously made, or caused to be made, a prescribed medical examination of the insured by a legally qualified practicing physician: Provided, however, nothing herein contained in this section shall be construed to permit the entering into any contract of life insurance upon groups taken from any fraternal beneficiary society doing business in this state.

Sec. 3. (3257) **Policy binding on company.**—In any claim arising under a policy which has been issued in this state by any life insurance company without previous medical examination, or, without the knowledge and consent of the insured or, if said insured is under fourteen years of age, without the consent of the parent, guardian or other person having legal custody of said minor, the statements made in the application as to age, physical condition, and family history of the insured, shall not be valid and binding upon the company, but the company shall not be debarred from proving as a defense to such claim that said statements were wilfully false, fraudulent or misleading.

Sec. 4. (3258) **Insurance without insured consenting.**—No policy or agreement for insurance shall be issued upon the life or health of another or against loss by disablement by accident except upon the application of the person insured; but a wife may take a policy of insurance upon the life or health of her husband, or against loss by his disablement by accident; an em-

ployer may take out a policy of accident insurance covering his employes collectively for the benefit of such as may be injured, and a person liable for the support of a child at the age of one year and upwards may take a policy of insurance thereon, the amount payable under which may be made to increase with advancing age, and which shall not exceed the sums specified in the following table, the ages wherein specified being the age at the time of death, for an amount not exceeding the sum specified in the table:

Between the ages of one and two years, thirty dollars.

Between the ages of two and three years, thirty-four dollars.

Between the ages of three and four years, forty dollars.

Between the ages of four and five years, forty-eight dollars.

Between the ages of five and six years, forty-eight dollars.

Between the ages of six and seven years, one hundred and forty dollars.

Between the ages of seven and eight years, one hundred and sixty-eight dollars.

Between the ages of eight and nine years, two hundred dollars.

Between the ages of nine and ten years, two hundred and forty dollars.

Between the ages of ten and eleven years, three hundred dollars.

Between the ages of eleven and twelve years, three hundred and eighty dollars.

Between the ages of twelve and thirteen years, four hundred and sixty dollars.

Between the ages of thirteen and sixteen years, five hundred and twenty dollars.

Between the ages of sixteen and seventeen years, six hundred and twelve dollars.

Between the ages of seventeen and eighteen years, seven hundred dollars.

Between the ages of eighteen and nineteen years, seven hundred and eighty-four dollars.

Between the ages of nineteen and twenty years, eight hundred and fifty-five dollars.

Between the ages of twenty and twenty-one years, nine hundred and thirty dollars.

In respect of insurance heretofore or hereafter by any person not of the full age of twenty-one years, but of the age of fourteen years or upwards, effected upon the life of such minor, for the benefit of such minor or for the benefit of the father, mother, husband, wife, brother or sister of such minor, the assured, shall not, by reason only of such minority, be deemed incompetent to contract for such insurance or for the surrender of such insurance, or to give a valid discharge for any benefit accruing, or for money payable under the contract.

Sec. 5. (3259) **Accumulations.**—Any domestic life insurance company may accumulate and maintain in addition to the net value of its policies and all accumulations held on account of existing or future dividend policies or groups of such policies, a contingency reserve of not more than ten per cent of said net value, or the sum of one hundred thousand dollars, whichever is the greater. For cause shown the department of trade and commerce may at any time, and from time to time permit any company to accumulate and maintain a larger contingency reserve, not exceeding one year under any one permission, by filing in the office of the department of trade and commerce a written request stating the reasons therefor.

Sec. 6. (3260) **Separate department required—when.**—All domestic stock life insurance companies, which shall hereafter issue both participating and non-participating policies, shall hold all the surplus and earnings arising from the participating insurance for the benefit of, and for distribution to the participating policy holders, and shall give to the holders of such participating policies full right to participate in the accumulations of such company from such business, as provided by this article. All such companies shall keep and transact its participating and non-participating business in separate accounts, and shall maintain a complete separation between the two accounts. They shall

make separate reports to the department of trade and commerce for the two classes of insurance, and no part of the surplus accumulated from or belonging to the participating business shall be transferred to the non-participating business. Accumulations from paid-up or temporary and pure endowment insurance issued or granted in exchange for lapsed or surrendered participating policies shall be credited to the participating business alone.

ARTICLE X.

ASSESSMENT ASSOCIATIONS.

Section 1. **(3261) Special and additional requirements.**—No domestic assessment association shall begin to transact the business of insurance until:

(a) Its by-laws, stating in detail its scheme and method of doing business, shall have been approved by the department of trade and commerce. Every amendment to a by-law which in any manner changes the scheme or method of doing business must be approved by the department of trade and commerce before it shall take effect.

(b) It shall issue simultaneously policies upon one hundred or more risks, and shall have received in cash the proceeds of one assessment, unless formed to insure grain elevators and contents, warehouses, coal sheds, lumber yards and flour mills, in which case there shall be not less than fifty policies.

Sec. 2. **(3262) How assessments determined.**—All assessments shall be determined by proper classification and rating of the risks which an assessment association may assume so that every member may be assessed in a proper proportion to his risk. The method of estimating the prorate amount of each member's liability for losses and his share of the expenses shall be fixed in the by-laws. All assessments shall be made by the board of directors unless otherwise provided in the articles of association.

Sec. 3. **(3263) When assessments to begin.**—No assessment shall be made on a member for liability occurring prior to his membership. A member may be excluded from all benefits during the time he is in default of payment of any assessment.

Sec. 4. (3264) **Withdrawal.**—Any member may withdraw by surrendering his policy for cancellation at any time by giving notice in writing to the secretary of the association and paying a cancellation fee of fifty cents and the amount of his share of all claims then existing against the company, which amount shall not exceed his contingent liability.

Sec. 5. (3265) **Notice of loss.**—Every member of such association who may sustain loss or damage shall, as soon as practicable, thereafter, notify the secretary thereof stating the amount of damage or loss claimed. The person or persons authorized by such company to adjust losses shall proceed to ascertain the amount of such loss or damage and adjust the same.

Sec. 6. (3266) **Suits.**—Suits at law may be brought against any member who shall neglect or refuse to pay any assessment made against him in the same manner as for the collection of any other debt; and a member may bring an action against the company for any loss sustained.

Sec. 7. (3267) **Failure of officers to perform duty—penalty.**—If the officers and directors of any such association shall fail or refuse, after receiving notice of a loss, to take the necessary steps to provide for the payment of the same, they shall render themselves individually liable therefor, and an action may be maintained against them to collect such amount.

Sec. 8. (3268) **Policy fee.**—Every such association may collect at the time of the issuing of a policy, a fee, which for all purposes, including membership, shall not exceed five dollars and a percentage of the amount insured not exceeding one and one-half per cent as an advance assessment as the by-laws may provide. From the amount so collected a contingency fund may be created, and such fund may be maintained and added to from any other funds collected by the company in the manner provided in the by-laws.

Sec. 9. (3269) **Company may borrow—when.**—Whenever the cash on hand, not including the contingency fund, shall be insufficient to pay all claims, then such deficiency may be taken from the contingency fund. If this fund is insufficient to meet all claims, then the company may borrow money for such purposes. Any diminution of the contingency fund shall be a liability to be provided for by the next assessment.

Sec. 10. (3270) **Arbitration.**—Any such association may provide in its by-laws for arbitration of any claim for loss or damage where a member and the association fail to agree thereon.

Sec. 11. (3271) **Time certificates may run.**—No certificate or policy of an assessment association insuring property shall cover a longer period than five years from its date, unless such assessment association shall provide in its by-laws for readjustment or reappraisement of such property insured, at least once in five years.

Sec. 12. (3272) **Hail associations.**—An assessment hail association shall issue policies only on growing crops, insuring against loss or damage by hail. At the option of the association the state may be divided into districts of not less than fifteen counties each, for the purpose of making assessments according to the hazard in each district. It shall be unlawful for any such association to borrow money in any year in excess of twenty-five per cent of the obligations of its members for that year. All such associations shall deposit in some bank or banks fifty per cent of all the income from its members or policy holders, which deposit shall be drawn from said bank for the payment of losses only, and by check or order issued by the proper officers of such association. Each check or order shall designate the name of the policy holders for whose benefit the money is drawn, and shall give the number of his policy. No officer or employee of such association who shall receive a fixed salary for his services, shall be allowed or permitted to receive a commission or any other compensation, other than the fixed salary which shall be provided for in the rules or by-laws of the association. The officers of such association having the custody of the papers or funds thereof, shall enter into bonds, to the state of Nebraska, for the use and benefit of said members or policy holders in the sum of fifty thousand dollars with some surety company or companies authorized to do business in the state of Nebraska, such bond to be approved by and deposited with the State of Nebraska, conditioned for the faithful and accounting of the funds of such association, as provided in this section. Suit upon such bonds shall be brought by the attorney general upon a showing by the department of trade and commerce that a condition of the bond has been violated.

Sec. 13. **Physicians and surgeons—malpractice.**—Mutual associations may be organized by physicians and dentists, for the purpose of protecting themselves against loss by reason of actions at law on account of alleged negligence and carelessness of said physicians and dentists in the treatment of patients, and for alleged malpractice or loss by reason of damages in other respects, and to reimburse any member of such associations in case of such loss, and to mutually assist in the defense of suits and claims for damages on account of said alleged carelessness and malpractice. Such associations may issue certificates of membership, or policies, the payment of the premiums of which may be on the cash, installment, or assessment plan.

Sec. 14. **Same—charter approval.**—Before beginning the transaction of business, such association shall submit its charter, by-laws and forms of membership certificate, or policy, to the department, which, if it approve the same, shall issue its certificate of authority to transact such business in this state.

Sec. 15. **Department control of mutual association.**—The department shall have and exercise the same jurisdiction and control over such mutual associations as it has over other insurance associations doing business in this state.

Sec. 16. **Conditions precedent to doing business.**—Mutual associations or companies organized under the laws of any other state for the purpose of transacting the kind of business described in section one of this act, and which have been in business for at least one year or more and have on hand cash assets to an amount of not less than ten thousand (\$10,000.00) dollars and have not less than five hundred policy holders, shall be admitted to do business in this state, subject, however, to the jurisdiction and control of the department in all things and to the same extent as domestic companies of like character.

ARTICLE XI.

MISCELLANEOUS PROVISIONS.

Sec. 1. (3273) **Endorsement on policy.**—On the face of every policy or certificate issued by a domestic corporation it shall appear whether the corporation is a stock, mutual, assessment or fraternal one.

Sec. 2. (3274) **Exemptions.**—All moneys and all and every benefit accruing under any policy or certificate payable at the death of the insured, where the annual premium thereon, including all others on like policies, does not exceed five hundred dollars, shall be exempt from the claims of creditors when the person entitled thereto is not the executor or administrator of the insured or of the beneficiary. And when the annual premium thereon shall exceed five hundred dollars, such exemption shall not apply to such excess, but all money accruing thereunder, or under like policies, by virtue of such excess, shall inure to the benefit of the creditors of the person paying the same, whether such person is the insured or a beneficiary.

Sec. 3. (3275) **Form approved.**—No insurance policy or certificate of any kind shall be issued or delivered in this state unless and until a copy of the form thereof has been filed with the department of trade and commerce and approved by it.

Sec. 4. (Ch. 78, 1917) **Foreign companies—admission.**—No foreign or alien company shall be admitted to do business in this state, until, in addition to all other requirements, it has made at least one annual report, to the insurance department of the state or country in which its home office is located.

Sec. 5. (3277) **Rebating prohibited.**—No insurance company, by itself or any other party, and no insurance agent or broker, personally or by any other party shall offer, promise, allow, give, set off or pay, directly or indirectly, any rebate of, or part of, the premium payable on the policy, or of any policy, or agent's commission thereon, or earnings, profits, dividends or other benefits founded, arising, accruing, or to accrue thereon or therefrom, or any paid employment or contract for service, or for advice of any kind, or any other valuable consideration or inducement to, or for insurance, on any risk authorized to be taken under this article now or hereafter to be written, which is not specified in the policy contract of insurance; nor shall any such company, agent or broker, personally or otherwise, offer, promise, give, sell or purchase any stock, bonds, securities or property, or any dividends or profits accruing, or to accrue thereon, or other things of value whatsoever as inducement to insurance or in connection therewith which is not specified in the policy. No insured person or party shall receive or accept,

directly or indirectly, any rebate of premium, or part thereof, or agent's or broker's commission thereon, payable on the policy, or on any policy of insurance, or any favor or advantage or share in the dividends or other benefits to accrue on, or any valuable consideration or inducement, not specified in the policy contract of insurance.

Sec. 6. (3278) **Misrepresentation and twisting.**—No insurance company or any officer, director, agent or broker thereof or any other person shall issue, circulate or use, cause, or permit to be issued, circulated or used, any estimate, statement or circular misrepresenting the terms of any policy issued, or to be issued, by such company, or misrepresenting the benefits or privileges promised under any such policy. No insurance company, officer, director or agent thereof, or any other person, shall make any incomplete comparison of policies or contracts issued, or to be issued, or any misrepresentations, oral, written or otherwise to any person insured in any other company for the purpose of inducing, or tending to induce, such person to take out a policy of insurance, or for the purpose of inducing, or tending to induce, such policy holder in any other company or association to lapse, forfeit or surrender his insurance therein.

Sec. 7. (3279) **Discrimination.**—No life insurance company shall make or permit any distinction or discrimination in favor of individuals, between insurance of the same class and equal expectation of life, in the amount of payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contract it makes; nor shall any company, agent, solicitor or broker make any contract of insurance or agreement as to such contract, other than is plainly specified in the policy thereon; except that any life insurance company doing business in this state may issue policies of life or endowment insurance with or without annuities on the industrial plan with special rates of premiums (but without discrimination) less than the usual rates of premiums for such policies when issued to members of labor organizations, societies or similar organizations, or employees of one employer, who through their secretary or employer may take out insurance in an aggregate of not less than one hundred members and pay their

premiums through such secretary and employer: Provided, however, nothing herein contained in this section shall be construed to permit the entry into any contract of life insurance upon groups taken from any fraternal beneficiary society doing business in this state.

No life insurance company shall issue in this state, nor permit its agents, officers, or employees to issue in this state, agency company stock, or other stock or securities, or any special or advisory board contract, or other contract of any kind promising returns and profits, as an inducement to insurance; and no life insurance company shall be authorized nor permitted to do business in this state, which issues or permits its agents, officers or employees, to issue in this state or in any other state or territory, agency company stock, or other stock or securities, or any special advisory board contract, or other contract of any kind promising returns and profits, as an inducement to insurance; and no corporation or stock company, acting as agent of a life insurance company, nor any of its agents, officers or employees, shall be permitted to agree to sell, offer to sell, or give or offer to give, directly or indirectly, in any manner whatsoever, any share of stock, securities, bonds or agreement of any form or nature, promising returns and profits, as an inducement to insurance or in connection therewith.

Sec. 8. (3280) Meaning of preceding sections.—The intent of the three preceding sections is to cover any and every form of misrepresentation and discrimination, present or future, whether clearly appearing in the policy issued or hidden under some scheme or guise therein; and said sections shall receive a liberal interpretation with this intent in view.

Sec. 9. (3281) License revoked.—The license of any insurance company, agent or broker found by the department of trade and commerce, after hearing, to have violated any of the provisions of sections 5, 6, and 7 of this article, may be revoked; and no license shall be issued to such company, agent or broker within three months from the date of the revocation of the license.

Sec. 10. (3282) States' attorneys to prosecute.—In all proceedings instituted in any court, or otherwise, under the provisions of this article, it shall be and thereby is made the duty

of the attorney general, and of the several county attorneys throughout the state, to prosecute or defend all such proceedings, when requested by the department of trade and commerce so to do.

Sec. 11. (3283) **Annuity—amount—time of payment.**—Any policy containing a provision for a deferred annuity on the life of the insured only (unless paid for a single premium) shall provide that in the event of the non-payment of any premium after three full years' premium shall have been paid, the annuity shall automatically become converted into a paid-up annuity for such proportion of the original annuity as the number of completed years' premiums paid bears to the total number of premiums required under the contract.

Sec. 12. (3284) **Department to fix charges of surety company.**—It shall be the duty of the department of trade and commerce to investigate the rates of premiums charged by surety and fidelity companies transacting business within this state, and when in the judgment of the department of trade and commerce, the necessity arises, to fix a maximum schedule of rates of premium to be charged by any fidelity or surety company transacting business within this state, upon each and all, severally, of the different kinds of bonds, contracts, recognizances, stipulations and undertakings. For the purpose of conducting the investigations above provided for, it shall have power, by appropriate process, to compel the attendance of witnesses which witnesses shall be paid the same fees as are paid witnesses in the district court and said department shall have authority to examine and inspect all the books, papers and records of any such surety or fidelity company for the purpose of gaining information to enable them to fix such maximum rates of premiums. The fees of witnesses and necessary expenses shall be paid out of any fund available for that purpose, on the order of the department.

Sec. 13. (3285) **Department certify maximum rate to company.**—It shall be the duty of the department of trade and commerce when such maximum of premiums has been so fixed, to send a certified copy of such maximum of premium to each fidelity and surety company authorized to transact business in this state, and it shall be unlawful for any such fidelity or surety

company to exact, charge or receive any greater rate of premium upon any bond, contract, recognizance, stipulation, or undertaking than named in the schedule of rates of premium, so fixed by the department of trade and commerce, for the same respectively.

Sec. 14. **(3286) Extorting greater rate—penalty.**—If any officer, or agent of any such fidelity or surety company shall exact, charge or receive any greater rate of premium for any bond, contract, recognizance, stipulation or undertaking than that so aforesaid fixed by said department of trade and commerce, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars, or be confined in the county jail for a period of not less than thirty days, nor more than three months, or both.

Sec. 15. **(3287) Assessment—life associations.**—No life insurance company or association other than fraternal beneficiary associations, which issues contracts, the performance of which is contingent upon the payment of assessments or calls made upon its members, shall be hereafter organized to do business within this state; but all such companies or associations as are now licensed to do business within the state on such plans may continue and carry on the business of insurance on the plan under which they are organized and doing business at the time of the taking effect of this article without being required to value their assessment policies, or certificates of membership as yearly renewal term contracts.

Sec. 16. **(3288) Appeals.**—Any person or company may appeal from any decision of the department of trade and commerce to the district court of the county in which the state capital is located, unless otherwise provided, within twenty days from the date thereof, in the same manner as appeals are now taken from the action of the auditor of public accounts in the disallowance of claims. The court shall hear the appeal as in equity and without a jury, and shall render judgment and apportion costs as may be equitable. The decision of the department of trade and commerce shall remain in full force until reversed by final judgment of the court.

Sec. 17. **(3289) Persons must testify.**—No person shall be excused from testifying, or from producing any books, papers, contracts, agreements or documents at the trial or hearing of any person or company charged with violating any provisions of this article on the ground that such testimony or evidence may tend to incriminate himself, but no person shall be prosecuted for any act concerning which he shall be compelled so to testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying.

Sec. 18. **(3290) Policy payable in installments.**—A life insurance company may provide that the amount to become due under a policy shall be paid in installments to a beneficiary therein named; and if such beneficiary shall die before all said installments are paid, said policy may provide to whom the remaining ones shall be paid. If the beneficiary is other than the party procuring said policy from the company, he shall have no right either to commute the amount due thereunder or to assign, pledge, encumber, or dispose of the same, or to anticipate any benefits mentioned therein.

Any person holding a policy in any such company may, without the consent of the beneficiary, unless the appointment of such beneficiary be irrevocable, either sell and surrender the same to the company, or pledge or assign the same as security for a debt, which if due the company, shall be secured by said policy whether it is in the possession of the company or not; or, with the consent of the company, he may change his beneficiary.

Sec. 19. **(3291) Immediate disposal of notes prohibited.**—It shall be unlawful for any company or agent thereof to hypothecate, sell or dispose of a promissory note, received in payment for any part of a premium on a policy of insurance applied for under the provisions of this article, prior to the delivery of the policy to the applicant.

Sec. 20. **(3292) General penalty.**—Any company or person who knowingly violates any provision of this article for which no penalty is provided, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding three months.

Sec. 21. (3293) **Interstate reciprocity.**—If any domestic insurance company or association, or domestic fraternal beneficiary society, having a certificate of authority from the department of trade and commerce, shall make application for admission to any other state or country, and shall comply with all the statutory regulations of such state or country and it shall be refused admission to such state or country, it shall be the duty of the department of trade and commerce after thirty days' notice to the officer in charge of insurance in said country or state, to revoke every certificate of authority granted to like companies or societies organized under the laws of the state or country so refusing admission to a domestic insurance company or association or domestic fraternal beneficiary society, unless and until said country or state shall grant the necessary license or certificate to such domestic insurance company or association or fraternal beneficiary society.

ARTICLE XII.

FRATERNAL INSURANCE.

Section 1. (3295) **“Fraternal beneficiary association” defined.**—A “fraternal beneficiary society” is hereby declared to be a corporation, society or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries, and not for profit. Each such society shall have a lodge system, with ritualistic form of work, and representative form of government. Any such society shall be deemed to have a representative form of government when it shall provide in its constitution and laws for supreme legislative or governing body composed of representatives elected either by the members, or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and laws: Provided, the elected members shall have not less than nine-tenths of the vote, nor less than the votes required to amend its constitution and laws; and provided further, that the meetings, of the supreme or governing body, and election of officers, representatives, or delegates, shall be held as often as once in four years. The members, officers, representatives or delegates of a fraternal society shall not vote by proxy.

Any such society shall not be deemed to have a representative form of government that shall not be in accordance with the provisions herein made: Provided, this section as to the membership of the supreme body shall not be in force or affect any society now organized until immediately after the holding of the next regular meeting of the supreme governing body of said society. Provided, further, all questions affecting the rate or plan of assessments, or the amount of benefits or the plan of their payment, shall be and remain in the hands of the membership at large, and no change in the rate or plan of assessment, or in the amount of benefits or the plan of their payment, shall be effective within ninety days after such change has been proposed; and provided further, upon the filing of a petition signed by ten per cent of the membership of said association, with the proper officer or officers of said association, asking that said proposed change shall be submitted to the membership of said association, within ninety days, then and in that case such officer or officers shall submit such proposed change to the membership of said association through its local orders; and such proposed change shall not be effective until a majority of the members voting upon such proposed change shall have been cast in favor thereof, nor until the result of such referendum vote herein provided for shall have been duly certified under seal by the proper officers of said association and said certificate filed in the office of the department of trade and commerce and by it, duly approved.

Sec. 2. (3295) **Fraternal beneficial association.**—A “fraternal beneficiary association” is hereby declared to be a corporation, society or voluntary association, formed or organized and carried on for the sole benefit of its members and their beneficiaries, and not for profit. Each such beneficiary association shall have a lodge system, with ritualistic form of work, and a representative form of government: Provided, however, whenever any proposed change or amendment in the constitution or by-laws of any such society, making, fixing, changing or raising the schedule of rates of insurance, or periodical contribution, by members, for the payment of benefit or death claims, or the creation of a reserve in any beneficial society authorized to transact business in this state shall be proposed or promulgated by the governing body of such society, such proposed change shall not

be effective until ninety days from and after due notice of such change shall have been given by the proper officer or officers of such governing body to the members of such society through its official paper, and by notice thereof to the local lodges or societies by mail to the proper officers of such local orders; and provided further, whenever a petition signed by at least ten per cent of the membership of such society, asking that such proposed change be submitted to a referendum vote of the membership of such society, shall be filed with the proper officer or officers of such governing body of such society, within ninety days after such notice has been given, then and in that case such proposed change shall not take effect and be in force until such proposed change shall have been submitted to a vote of the membership of such society and shall have been approved by a majority vote of the members voting upon such proposed change and it is hereby made the duty of the officers of the governing body within thirty days after receiving such petition asking for a referendum vote to submit to all the beneficiary members of such society such proposed change or amendment in the constitution or by-laws, the same to be expressed by ballot at an election to be held in their respective lodges not less than twenty days nor more than sixty days from the date of the notice of such election, and the result of such election has been reported to the department of trade and commerce and by it duly approved.

Sec. 3. (3296) Regulations for payment of benefits.—Such society shall make provision for the payment of benefits in case of death, and may make provision for the payment of benefits in case of sickness, temporary or permanent physical disability, either as a result of disease, accident or old age: Provided, the period in life at which payment of physical disability benefits, on account of age, commences, shall not be under seventy years: Provided, the payment of such benefits in all cases shall be subject to compliance, by the member with the contract, constitution, rules and laws of the society: Provided further, this article shall not be construed to include fraternal orders which only provide for sick and funeral benefits nor shall the contract between the holder of any certificate or the beneficiaries of such certificates and the society, order or association issuing the same,

contained in the certificate issued by any such society, order or association, organized under the laws of this state prior to January 1st, 1898, be in any way affected by this article.

Sec. 4. (3297) **Benefit fund—how derived.**—The fund from which the payment of such benefits shall be made, and the fund from which the expenses of such society shall be defrayed, shall be derived from beneficiary calls, assessments or dues collected from its members.

Sec. 5. (Ch. 79, 1917) **Fraternal insurance—children.**—Any fraternal beneficiary association organized under the laws of this state or doing business in this state, may issue certificates for the payment of sick, death or annuity benefits upon the lives of children between the ages of one and eighteen years who have been examined and approved in accordance with the laws of such association, provided that the application for such a benefit certificate shall be made by a parent or guardian of such child or some person upon whom such child is dependent for support. When such child shall arrive at the age permitting a personal application for insurance under the laws of such association, the certificate issued under this provision may be exchanged for any other form of certificate issued by the association, such exchange to be in accordance with the constitution, laws and regulations of such association. The free designation of a beneficiary in such exchange being left to such child.

Sec. 6. (Ch. 79, 1917) **When permitted.**—Such association shall not issue any such benefit certificate until after it shall have simultaneously put in force at least five hundred such certificates on each of which at least one assessment has been paid; nor where the number of lives represented by such certificate falls below five hundred.

Sec. 7. (Ch. 79, 1917) **Basis of rates.**—The net beneficiary assessment collected upon such certificate shall be based upon the Standard Industrial Table of Mortality now adopted by the state of New York and interest at the rate of three and one-half per centum per annum, or upon a higher standard. The funds so collected, shall be kept as separate and distinct and shall not be liable nor used for the payment of debts and obligations of the association other than the benefits herein authorized.

Sec. 8. **Benefits allowed.**—The total benefits payable shall in no case for the respective ages exceed the following amounts, the age to be determined at the anniversary of birth following the death:

- Two years, thirty four (\$34.00) dollars;
- Three years, forty (\$40.00) dollars;
- Four years, forty-eight (\$48.00) dollars;
- Five years, fifty-eight (\$58.00) dollars;
- Six years, ninety-five (\$95.00) dollars;
- Seven years, one hundred and fifty (\$150.00) dollars;
- Eight years, one hundred and sixty-eight (\$168.00) dollars;
- Nine years, two hundred (\$200.00) dollars;
- Ten years, two hundred and forty (\$240.00) dollars;
- Eleven years, three hundred (\$300.00) dollars;
- Twelve years, three hundred and eighty (\$380.00) dollars;
- Thirteen years, four hundred and sixty (\$460.00) dollars;
- Fourteen, fifteen and sixteen years, five hundred and twenty (\$520.00) dollars;
- Seventeen years, six hundred and twelve (\$612.00) dollars;
- Eighteen years, seven hundred (\$700.00) dollars.

Sec. 9. (Ch. 79, 1917) **Membership—age limit.**—No fraternal society created or organized under the provisions of this article shall issue beneficiary certificates of membership to any person over the age of fifty-two years. Payment of death benefits shall only be made to the families, heirs, blood relations, affianced husband or affianced wife of or the persons dependent upon the member. Provided, that a member who is totally and permanently disabled, either from accident, disease or old age, or is without means of support, may, with the consent of the society, if the by-laws so provide, make a charitable institution, trust company, the lodge or subordinate body of the society of which he is a member, or any person entering into an agreement in writing in manner and form satisfactory to said society, to support such member, the beneficiary in his certificate. Provided, that a member having no husband, wife or children, may, with the consent of the society, make a charitable institution the beneficiary.

Sec. 10. (3299) **Exempt from insurance laws.**—Such societies shall be governed by this article and shall be exempt from

the provisions of the statutes of this state relative to life insurance companies except as hereinafter provided; and no law hereafter passed shall apply to them unless they be expressly designated therein.

Sec. 11. **(3300) Suits.**—Such society may be sued in any county in which is kept their principal place of business, or in which the beneficiary contract was made, or in which the death of the member occurred, or in the county of the residence of such deceased member; but actions to recover old age, sick or accident benefits may, at the option of the beneficiary, be brought in the county of his residence.

Sec. 12. **(3301) Benefits—not liable to attachment.**—The money or other benefit, charity, relief or aid to be paid provided or rendered by any society authorized to do business under this article shall not be liable to attachment by trustee, garnishee or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process, or by operation of law, to pay any debt or liability of a certificate holder, or of any beneficiary named in a certificate or of any person who may have any right thereunder.

Sec. 13. **(3302) Present societies.**—All such societies organized under the laws of this or any other state, territory or province, and now doing business in this state, may continue such business, provided they hereafter comply with the provisions of this article.

Sec. 14. **(3303) Examination and certificates.**—Any such society organized under the laws of any other state, and now doing business in this state, shall be permitted to do business within this state when it shall file with the department of trade and commerce a duly certified copy of its charter and articles of association, and a copy of its constitution and laws certified to by its secretary or corresponding officer, together with an appointment of the department of trade and commerce as a person upon whom process may be served as hereinafter provided; and Provided, such society shall be shown by proper certificate to be authorized to do business in the state in which it is incorporated or organized. The department of trade and commerce or one of its deputies, assistants or employees may examine into the condition, affairs, character and business methods, accounts and

books and investments of such society, at its home office, which examination shall be at the expense of said society, and shall be made within thirty days after demand therefor, and the expenses of such examination shall be limited to five dollars per day and the necessary expenses of travel and hotel bill. If the department of trade and commerce, after such examination, is of the opinion that no permit should be granted to such society, it may refuse to issue the same.

Sec. 15. **(3304) Annual report.**—Every society doing business in this state shall, on or before the first day of March of each year, make and file with the department of trade and commerce, a report for the year ending on the thirty-first day of December immediately preceding. All reports shall be upon blank forms to be provided by the department of trade and commerce and shall be verified under oath by the proper officers of such society, and shall contain such information as the department of trade and commerce may require. At the time of filing such annual report each society shall pay to the state treasurer a fee of ten dollars. The department of trade and commerce is authorized to make any additional inquiries of any such society relative to the business contemplated by this article at any time; and the officers of such society, as the department of trade and commerce may require, shall promptly reply in writing, under oath, to all such inquiries. If, upon examination, the department of trade and commerce is satisfied that such society is transacting its business according to law and in no sense fraudulently, it shall issue a certificate authorizing said society to transact business for the following year.

Sec. 16. **(3305) Attorney for service of process.**—Any such society permitted to do business in this state and not having its principal office within this state, and not organized under the laws of this state, shall appoint in writing the secretary of the department of trade and commerce to be attorney in fact for such society, on whom all process in any action or proceeding shall be served in the same manner as all other foreign companies are required to appoint an attorney in this state for service.

Sec. 17. **(3306) Department's permit.**—The department of trade and commerce shall, upon the application of any such association, issue to it a permit in writing authorizing it to do busi-

ness within the state for which certificate and all proceedings connected therewith, such society shall pay to the state treasurer a fee of twenty dollars.

Sec. 18. **(3307) Agents.**—Such society shall not employ paid agents in soliciting or procuring members, except in the organization or building up of subordinate bodies or granting members inducements to procure new members.

Sec. 19. **(3308) Right to name beneficiary.**—No contract between a member and his beneficiary that the beneficiary or any person for him shall pay such member's assessments and dues, or either of them, shall deprive the members of the right to change the name of the beneficiary.

Sec. 20. **(3309) Meetings of governing body.**—Any such society, organized under the laws of this state, may provide for the meeting of its legislative or governing body in another state, territory or province wherein such association shall have subordinate bodies, and all business transacted at such meeting shall be valid, in all respects as if such meeting were held within this state; and where the laws of any such society provide for the election of its officers by votes to be cast in its subordinate bodies, the votes so cast in its subordinate bodies in any other state shall be valid, as if cast within this state.

Sec. 21. **(3310) Societies violating this article excluded from state.**—Any such association refusing or neglecting to make the report as provided in this article shall be excluded from doing business within this state. The department of trade and commerce shall within sixty days after the failure to make such report or in case any such society shall exceed its powers, or shall conduct its business fraudulently, or shall fail to comply with any of the provisions of this article, give notice in writing to the attorney general, who shall immediately commence an action against such society to enjoin the same from carrying on any business. No society so enjoined shall have authority to continue in business until such report shall be made, or overt act or violation complained of shall have been corrected, nor until the costs of such action be paid by it: Provided, the court shall find that such society was in default, as charged; whereupon the department of trade and commerce shall reinstate such associa-

tion, and not until then shall such association be allowed to again do business in this state. Any officer, agent or person acting for such association or subordinate body thereof within this state, while such association shall be so enjoined or prohibited from doing business pursuant to this article, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than one year or both fine and imprisonment.

Sec. 22. **(3311) Penalties for violation.**—Any person who shall act within this state as officer, agent or otherwise for any such association which shall have failed or neglected or refused to comply with, or which shall have violated any of the provisions of this article or shall have failed or neglected to procure from the department of trade and commerce proper certificate of authority to transact business as provided by this article, shall be subject to the penalty provided in the next preceding section for the misdemeanor therein specified.

Sec. 23. **(3312) Penalties for fraud.**—Any officer, agent or member of such society, who shall obtain any money or property belonging thereto, by any false or fraudulent representation, shall be fined not more than five hundred dollars and costs, and stand committed until such fine and costs are paid, or may be imprisoned in the county jail not more than six months.

Sec. 34. **(3313) Medical examination.**—Every applicant for beneficial membership in any such society doing business in this state shall first be examined by a physician duly authorized to practice medicine within the state. Provided, however, that where the policy issued by such society limits the obligation of such society to the payment of benefits in case of death or disability as a direct result of an accident, it shall not be necessary for the applicant for such beneficial membership to first be examined by a physician.

Sec. 25. **(3314) New corporation under this article.**—Any ten or more persons, residents of this state and over twenty-one years of age, may associate themselves together for the purpose of forming a corporation under this article for which purpose

they shall make, sign and acknowledge, before any officer authorized to take acknowledgements of deeds in this state a certificate of association, in which shall be stated the name or title of the proposed society, the object for which it was formed, the plan of doing business clearly and fully defined; the names of the board of officers or managers for the first year and the manner of selecting their successors. The limits as to ages of applicants for membership, and that medical examinations are required, and that bona fide applications for membership have been secured from not less than two hundred and fifty persons, who have each made application for membership in such proposed society, and have been duly examined and recommended by a reputable physician, and have each deposited with the parties asking such charter the sum of one advance assessment on each one thousand dollars of insurance or part thereof provided for in the plan of organization of such society as an advance assessment for mortuary purposes, together with the certificates of some solvent bank or banks that all of such mortuary funds are deposited therein, to be turned over to the treasurer of a subordinate lodge or branch composed of such applicants, after the incorporation of such society, which certificate of association shall be filed with the department of trade and commerce accompanied by a fee of twenty dollars. Provided, such new organization shall not be permitted to issue a certificate to exceed the sum of one thousand dollars until it shall have at least two thousand beneficial members. If the department of trade and commerce shall find, after careful examination, that the objects of organization and plan of doing business are fully and definitely set forth, and are clearly within the provisions of this article, and that the name or title is not the same, or does not so nearly resemble a title in use as to have a tendency to mislead the public, it shall approve the same, and forthwith issue a certificate of organization to such society. Thereupon such society may proceed to transact business according to the plan of its organization.

Sec. 26. (3315) Deposit of securities—benefit funds kept separate.—All domestic societies, orders and associations contemplated in this article may deposit their notes, bonds and securities held by them, specifying at the time of such deposit to what funds such bonds, notes or other securities belong, with the de-

partment of trade and commerce for the benefit of their policy holders until they aggregate the sum of one hundred thousand dollars, and thereafter keep such amount and no more, as near as practicable of their securities, bonds or notes deposited with the department of trade and commerce and such deposits shall be subject to the same provisions of law as deposits made by other domestic companies as provided in section 13 of article IV; and such societies shall make the same report to the department of trade and commerce of the securities held by them and of the conversion of any such securities as provided, in said section 13 of article IV and shall be subject to the examination of their securities by the department of trade and commerce as therein provided: Provided, such secret societies and associations shall comply with all the other provisions of this article. The moneys collected by any such society from its members, according to the plan or method provided in its constitution and by-laws for the payment of death or disability claims arising under the terms of its beneficiary certificates, shall be kept separate and apart from the other funds of such society, and shall be used only in payment of such claims, and no part thereof shall be used by such society in payment of expenses of any kind or character.

Sec. 27. **(3316) Constitution and by-laws filed.**—Every such society shall file with the department of trade and commerce a copy of its constitution and by-laws duly certified to by the secretary or corresponding officer, and before any amendment, change or alteration, thereof shall take effect or be in force, a copy of such amendment, change or alteration, duly certified to by its secretary or corresponding officer, shall be filed with the department of trade and commerce.

Sec. 28. **(3317) Additional powers to fraternal societies.**—It shall be lawful for any fraternal beneficiary society or association organized under the laws of this state, and authorized to transact business in this state, which shall have and maintain fraternal relations with a like society of a similar name organized under the laws of another state, and which such other society shall claim to be superior to such society organized under the laws of this state, to contract to and with such society organized under the laws of such other state according to its constitution and laws to guarantee the payment of death benefits of such

society organized under the laws of this state either in whole or in part and in consideration of such guaranty to pay to such society organized under the laws of such other state any such sum or sums at such time or times as may be mutually agreed upon, and for the purpose of providing funds wherewith to make such payments such society organized under the laws of this state may collect from its members such assessments or dues as may be provided by its constitution or by-laws: Provided, such society organized under the laws of such other state, shall, on or before the thirty-first day of March of each year make, execute and deliver to the department of trade and commerce a power of attorney designating such department and upon whom service of process may be had in any case arising out of such contract between such societies.

Sec. 29. (3318) **Consolidation or re-insurance of fraternal risk.**—When any fraternal beneficiary association shall propose to consolidate or enter into any reinsurance contract with any other association or organization, it shall present its proposed plan of consolidation or reinsurance, together with a statement of the condition of its affairs to the department of trade and commerce for its approval. Should the plan be approved, the same shall be submitted by any association proposing to reinsure its risks, or transfer its business, to its local lodges or organizations or to a regular or special meeting of its supreme lodge or governing body to be voted upon, such notice being given as the department of trade and commerce may direct. If, in the judgment of the department of trade and commerce, it is deemed advisable, the department of trade and commerce may require the plan to be in like manner submitted to the association proposing to accept to reinsure the risks of any other association. In case two or more associations propose to consolidate, the proposed plan of consolidation shall be submitted, as above provided, to all of the associations interested in such consolidation. In any of the above cases, a two-thirds vote of all members of each association present and voting shall be necessary to an approval of any plan of consolidation or reinsurance, and in no case shall proxies be voted. On presenting to the department of trade and commerce, satisfactory proof that the foregoing provisions have been complied with, and that the required number of votes have

been cast in favor of the proposed plan, it shall issue to the association an order to the effect that the plan has been approved, and the same shall be in force and effect from and after the date of such order, and the department of trade and commerce shall direct such distribution of the assets of any such association or associations as shall be just and equitable.

Sec. 30. **(3319) Costs paid by associations.**—All expenses or costs incident to proceedings under the provisions of this article shall be paid by the associations interested.

Sec. 31. **(3320) Penalty.**—Any officer, director or manager of any association violating or consenting to the violation of any of the provisions of this article shall be punished by a fine of not less than one thousand dollars, or by imprisonment in the county jail not less than one year or by both such fine and imprisonment in the discretion of the court.

Sec. 32. **(3321) Saving clause.**—All actions and proceedings which may be pending in any court under existing laws which this article in any way supercedes or repeals shall proceed without being in any manner affected by the passage of this article.

ARTICLE XIII.

EMPLOYERS LIABILITY INSURANCE ASSOCIATIONS.

Section 1. **(3322) Employers mutual liability insurance—associations, incorporations and liability.**—It is hereby enacted that any twenty or more employers, who have in the aggregate not less than five thousand employes in the state of Nebraska, and who have accepted the provisions of Part II of the workmen's compensation law of 1913, may form an incorporated employer's mutual liability insurance association for the purpose of insuring themselves and such other employers as may become subscribers to the association, against loss from the liabilities imposed upon such subscribers by said law, or any act or acts amendatory thereof. Such incorporated employer's mutual liability insurance association shall be permitted to insure their subscribers against loss from the liability imposed by law upon such subscribers for damages on account of bodily injuries or

death, or property damage, suffered as the result of an accident by any person or persons, not employed by the subscriber.

Sec. 2. (3323) Incorporation articles.—The articles of incorporation thereof shall state:

(a) The name by which the association shall be known in law, which name shall not be in conflict with that of any existing association or company authorized to transact business in this state;

(b) The location of its principal business office, which must be located within the state;

(c) The plan of doing business, which must be fully and clearly defined;

(d) The period of time for which it is organized;

(e) The number of its directors, trustees or managers;

(f) The title of the officers by whom the affairs of the association are to be managed.

Sec. 3. (3324) Articles—approval—record—publication.—The subscribers to said articles of incorporation shall acknowledge the same before some person empowered to take acknowledgements of deeds. The articles of incorporation shall then be submitted to the auditor of state and attorney general. If said articles are found to comply with the provisions of this article, they shall approve the same. When said articles of incorporation are thus approved, they shall be recorded in the office of the register of deeds in the county where such organization is located, and in the office of the secretary of state. A notice shall be published as provided for under the general incorporation law of the state of Nebraska, but such association shall not engage in business until the further provisions of this article have been complied with.

Sec. 4. (3325) Prerequisites to issuing policies.—Such association shall not begin to issue policies until the list of the subscribers with the number of employes of each together with such other information as the department of trade and commerce may require, shall have been filed with them, not until the president and secretary of the association shall have certified under oath that every subscription in the list so filed is genuine and made with an agreement of all the subscribers that they will

take the policies subscribed for within thirty days of the granting of the license by the department of trade and commerce.

Sec. 5. (3326) **Examination—license.**—Upon the filing of the certificate provided for in the preceding section, the department of trade and commerce shall make such investigation as it may deem proper, and if its findings warrant it, shall grant a license to the association to issue policies.

Sec. 6. (3327) **Charters — perpetual — limited.**—Charters under this article may be perpetual, or limited in time, as the articles of incorporation shall specify.

Sec. 7. (3328) **By-laws—seal.**—Such association shall have the power to make by-laws for the government of its officers and the conduct of its affairs and to alter and amend the same; and adopt a common seal.

Sec. 8. (3329) **Annual meeting—directors—officers, etc.**—The annual meeting for the election of directors shall be held at such time in the month of January as the by-laws of the association may direct. Of the time and place of said meeting at least thirty days' previous written or printed notice shall be given to the subscribers, or such notice may be given by publication not less than three times in at least two daily or weekly newspapers, published in the city or county wherein the association has its principal office and in the legal periodical, if any, designated by the rules of court of the proper county for the publication of legal notices. Subscribers who, during the preceding calendar year, have paid into the treasury of the association, premiums amounting to more than one-half of the total premiums received by it during that year shall constitute a quorum. At such annual meeting the subscribers shall elect, by ballot, from their own number, not less than five directors, a majority of whom shall be residents of this state, to serve for at least one year and until their successors are duly chosen: Provided, however, such association may provide in its by-laws for the division of its board of directors into two, three or four classes, and for the election thereof, at its annual meetings, in such manner that the members of one class only shall retire and their successors be chosen each year.

Vacancies may be filled by election by the board until the

next annual meeting. In the choice of directors and in all meetings of the associations, each subscriber shall be entitled to one vote for every one hundred dollars or any fraction thereof paid by him in premiums into the treasury of the association during the preceding calendar year. Subscribers may vote by proxy, and the record of all votes shall be made by the secretary, and shall show whether the same were cast in person or by proxy and shall be evidence of all such elections. Not less than three directors shall constitute a quorum. The directors shall annually choose, by ballot, a president, who shall be a member of the board; a secretary; a treasurer, who may also be either the president or secretary; and such other officers as the by-laws may provide; and they shall fix the salaries of the president and secretary, as well as the salaries or compensation of such other officers and agents as the by-laws prescribe. Vacancies in any office may be filled by the directors or by the subscribers as the by-laws shall prescribe.

Sec. 9. **(3330) Policies.**—Policies of insurance issued by any such association may be made either with or without the seal thereof, and they shall be signed by the president, or such other officers as may be designated by the directors for that purpose, and attested by the secretary.

Sec. 10. **(3331) Same—when not issued.**—If at any time the number of subscribers falls below twenty or the number of the subscribers' employes within the state falls below five thousand, no further policies shall be issued until the total number of subscribers amounts to not less than twenty, whose employes within the state are not less than five thousand.

Sec. 11. **(3332) Directors—powers—examinations—regulations.**—The board of directors shall be entitled to inspect the plant, workroom, shop, farm or premises of any subscriber, and for such purpose to appoint inspectors, who shall have free access to all such premises during the regular working hours, and the board of directors shall likewise from time to time be entitled to examine by their auditor or other agent, the books, records and payrolls of any subscriber, for the purpose of determining the amount of premium, chargeable to such subscriber. The board of directors shall make reasonable rules and regulations for the prevention of injuries upon the premises of subscribers,

and they may refuse to insure or may terminate the insurance of any subscriber who refuses to permit such examination or disregards such rules or regulations, and forfeit all premiums previously paid by him; but such termination of the insurance of any subscriber shall not release him from liability for the payment of assessments then or thereafter made by the board of directors to make up deficiencies existing at the termination of his insurance.

Sec. 12. **(3333) Subscriber's liability.**—Every subscriber of such association shall be under a contingent mutual liability for the payment of losses and expenses in excess of the cash funds of the association to an amount equal to the premium paid by him during the current year.

Sec. 13. **(3334) Premiums.**—The board of directors shall determine the amount of the premiums which the subscribers of the association shall pay for their insurance, in accordance with the nature of the business in which such subscribers are engaged, and the probable risk of injury to their employes under existing conditions and they shall fix premiums at such amounts as in their judgment subject to the approval of the department of trade and commerce, shall be sufficient to enable the association to pay to its subscribers all sums which may become due and payable to their employes under the provisions of Part II of the Workmen's compensation law of 1913, and also the expense of conducting the business of the association. In fixing the premium payable by any subscriber, the board of directors may take into account the condition of the plant, work-room, shop, farm or premises of such subscriber in respect to the safety of those employed therein, as shown by the report of any inspector appointed by such board; and they may from time to time change the amount of premiums payable by any of the subscribers as circumstances may require, and the condition of the plant, work-room, shop, farm or premises of such subscriber in respect to the safety of their employes may justify; and they may increase the premiums of any subscriber neglecting to provide safety devices required by law, or disobeying the rules or regulations made by the board of directors in accordance with the provisions of the second next preceding section. No policy of in-

surance issued to any subscriber shall be effective until he shall have paid in cash the premium so fixed and determined.

Sec. 14. **(3335) Assessments.**—If the association be not possessed of cash funds, over and above its unearned premiums, on undetermined risks, sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the subscribers liable to assessment therefor, in proportion to their several liabilities.

Sec. 15. **(3336) Dividends.**—The board of directors may from time to time fix and determine the amount to be paid as dividends upon policies expiring each year, after repaying the unearned premiums upon undetermined risks and sufficient sums to pay all the compensation then payable or which may become payable, on account of injuries received by employes of the subscribers, and to pay the expenses incurred in the operation of the business of the association.

Sec. 16. **(3337) Groups.**—The board of directors may divide the subscribers into groups in accordance with the nature of their business and the probable risk of injury therein. In such case they shall fix all premiums, make all assessments, and determine and pay all dividends by and for each group in accordance with the experience thereof, but all funds of the association and the contingent liabilities of all subscribers shall be available for the payment of any claim against the association: Provided, however, (as between the association and its subscribers) until the whole of the contingent liability of the members of any group shall be exhausted, the general fund of the association and the contingent liability of the members of other groups shall not be available for the payment of losses and expenses incurred by such group in excess of the earned premiums paid by the members thereof.

Sec. 17. **(3338) Statement—filing—approval.**—A statement of any proposed premium, assessment, dividend or distribution of subscribers into groups shall be filed with the department of trade and commerce and shall not take effect until approved by it.

Sec. 18. **(3339) False oath—penalty.**—If any officer of the

association shall falsely make oath to any certificate required to be filed with the department of trade and commerce, he shall be guilty of perjury.

Sec. 19. **(3340) Withdrawals.**—Any subscriber of the association who has complied with all its rules and regulations, may withdraw therefrom by written notice to that effect, sent by such subscriber by registered mail to the association, and such withdrawal shall become effective on the first day of the month immediately following the tenth day after the receipt of such notice; but such withdrawal shall not release such subscriber from liability for the payment of assessments thereafter made by the board of directors to make up deficiencies existing at the date of his withdrawal, and such subscriber shall be entitled to his share of any dividends earned at the date of his withdrawal.

Sec. 20. **(3341) Deficiency.**—If the department of trade and commerce shall find that more than fifty per centum of the contingent liability of all the subscribers is required to pay accrued losses, after charging against the fund in hand the unearned premiums on undetermined risks, no further insurance shall be issued until the subscribers have made good such deficiency.

Sec. 21. **(3342) Funds — investment.**—Such association shall invest and keep invested all its funds of every description, excepting such cash as may be required in the transaction of its business as follows:

1. In such real estate as it is authorized to hold by the next following section.

2. In bonds of the United States or the District of Columbia or of any State or Territory in the United States.

3. In the legally authorized bonds or notes of any governmental agency created by this state, or by any other state or territory of the United States or Canada.

4. In the bonds or notes of any solvent railroad corporation upon which no default in interest has been made.

5. In loans upon improved and unincumbered real estate. Provided, no loans of such real estate shall exceed sixty-six and two-thirds per centum of the fair market value thereof at the time of making such loan.

Sec. 22. (3343) **Real estate.**—No such association shall purchase, hold or convey real estate, except for the purpose and in the manner herein set forth, to-wit:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business.

2. Such as shall have been mortgaged to it to secure loans previously contracted, or for moneys due.

3. Such as shall have been conveyed to it in satisfaction of debts.

4. Such as shall have been purchased at sales upon judgments, decrees or mortgages obtained or made for debts due the association, or for debts due other persons, where said association may have liens or incumbrances on the same.

Any real estate purchased under the second, third or fourth paragraphs of this section, which has been held for a period of more than five years from the date of its purchase, shall be sold and disposed of within a period of six months after notice to the association from the department of trade and commerce to sell and convey the same; Provided, however, the said department of trade and commerce may extend the time for such disposition if it believes the interest of the association will suffer materially by a forced sale.

Sec. 23. (3344) **Investments.**—Any money of such association, over and above the unearned premiums or undetermined risks, and such sums as are required to pay all accrued losses, may be invested in securities above enumerated, or loaned upon the security of the same; or in the stock or other evidence of indebtedness of any solvent, dividend-paying corporation, created under the laws of this state, or of any other state of the United States or loaned upon the pledge of the same, except its own stock or the stock of any other insurance company; Provided, the current market value of such security shall be at least twenty per centum more than the sum loaned thereon. But no such association shall invest any of its funds in any unincorporated business or enterprise, nor in the stock or evidence of indebtedness of any corporation, the owners or holders of which stock or evidence of indebtedness may in any event be or become liable on account thereof of any assessment, except for taxes; nor more

than one-fifth of its capital shall be invested in a single mortgage, nor shall any of its funds be loaned on personal security alone. No such association shall invest in, acquire or hold, directly or indirectly, more than ten per centum of the securities of any single company, nor shall more than ten per centum of its assets be invested in the stock of a single company. No such association shall enter into an agreement to withhold from sale any of its property; but the disposition of its property shall be at all times within the control of its board of directors. If any investment or loan is made in a manner not authorized by this article the officers and directors making or authorizing the same shall be personally liable for any loss occasioned thereby.

ARTICLE XIV.

STATE HAIL INSURANCE.

Section 1. **Zones—premiums.**—The department of trade and commerce shall have general supervision and charge of hail insurance and the carrying into effect of the provisions of this article. The department shall insure growing grain in any county in the state against loss by hail upon the terms and in the manner hereinafter set forth, and shall prepare and furnish a form of hail insurance policy. All of the expense incurred under this article shall be audited and allowed by the department of finance. For the purpose of this article the State of Nebraska shall be divided into three zones; the first zone to consist of Knox, Cedar, Dixon, Antelope, Pierce, Wayne, Dakota, Thurston, Boone, Madison, Stanton, Cuming, Burt, Platte, Colfax, Dodge, Washington, Nance, Merriek, Polk, Butler, Saunders, Douglas, Sarpy, Hamilton, York, Seward, Lancaster, Cass, Clay, Fillmore, Saline, Otoe, Nuckolls, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson counties; the second zone to consist of Harlan, Phelps, Gosper, Furnas, Keya Paha, Boyd, Brown, Rock, Holt, Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Dawson, Buffalo, Sherman, Howard, Hall, Kearney, Adams, Franklin and Webster counties; the third zone to consist of Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Banner, Kimball, Morrill, Cheyenne, Garden, Deuel, Cherry, Grant, Arthur, Keith, Perkins, Chase, Dundy, Hooker, Thomas, McPherson, Logan, Lincoln,

Hayes, Frontier, Hitchcock and Red Willow counties. Growing grain may be insured against loss by hail to the amount of either ten (\$10.00) dollars or fifteen (\$15.00) dollars per acre. The premium to be paid shall depend upon the amount per acre the growing crop is insured for and the zone in which such crop is located. In the first zone the premium shall be twenty-five (25) cents per acre for each acre insured if the amount of insurance is ten (\$10.00) dollars per acre, and forty (40) cents per acre for each acre insured if the amount of insurance is fifteen (\$15.00) dollars per acre. In the second zone the premium shall be forty (40) cents per acre for each acre insured if the amount of insurance is ten (\$10.00) dollars per acre, and sixty (60) cents per acre for each acre insured if the amount of insurance is fifteen (\$15.00) dollars per acre. In the third zone the premium shall be sixty (60) cents per acre for each acre insured if the amount of insurance is ten (\$10.00) dollars per acre, and ninety (90) cents per acre for each acre insured if the amount of insurance is fifteen (\$15.00) dollars per acre.

Sec. 2. **Assessor a solicitor.**—It shall be and is hereby made the duty of each and every county, precinct, township, city and village assessor in the state, each within his respective district, at the time of listing and assessing real and personal property, to inquire of the person whose property is assessed, whether or not he desires to have his growing grain, if he owns any, insured against loss by hail under the provisions of this article, for the year in which said assessment is made. Such assessor shall at said time explain to said person in detail the provisions hereof with reference to the amount of premium, the time when premiums must be paid, and the manner in which losses are adjusted. If said person owns a growing crop, said assessor shall furnish him an application blank for State Hail Insurance and solicit him to insure his crop under the provisions hereof. If the person whose property is assessed is willing and consents to have all or parts of his crops insured, the assessor shall take his application for hail insurance on blanks furnished him for that purpose by the county clerk, the form of which shall have been approved by the department. The application shall designate each piece of land to be insured. It shall also separately state the number of acres of wheat, oats, barley, flax, corn, rye,

or other grain that said person desires insured. The assessor or county clerk may collect and retain for his services an application fee equivalent to one-half ($\frac{1}{2}$) cent per acre for each and every acre insured. The assessor shall forward the application promptly to the county clerk. No county, precinct, township, city or village assessor, county treasurer, county clerk, or other person having duties to perform under the provisions of this article, shall represent or be in the employ of any person directly or indirectly engaged in soliciting, writing or placing any policy or insurance against loss by hail other than the one provided for herein. No person shall give, offer, or promise any money or any other thing of value, to any person having duties to perform under the provisions of this article, with intent to induce or influence such person, not to do his full duty under the provisions of this article. Any person violating any of the provisions of this article, shall, upon conviction, be fined not less than one hundred (\$100.00) dollars nor more than one thousand (\$1,000.00) dollars, or be imprisoned in the county jail for not more than one year.

Sec. 3. Application for insurance—duty of county clerks.—Each county clerk in the state shall file and keep the insurance applications returned to him by the several assessors. Any person who fails to insure his crop with the assessor as above described, may at any time up to and including the twenty-first day of August, apply to the county clerk of the county where the land is situated to have his crop insured, as provided in this article, by filling out and filing with the county clerk an application as prescribed in Section 2 hereof. Said insurance shall be in force and effect from the time of filing the application in the office of the county clerk, until September 15th of the current year. The county clerk shall keep a record of the time of the filing of each application and shall immediately issue and mail to each applicant his policy.

Sec. 4. Applications forwarded to department.—On the first of June, July and August, each and every county clerk within the state shall make out a list of all hail insurance applications filed in his office and forward the same at once to the department of trade and commerce, and on or before the first day of September in each year, each and every county clerk within the

state shall make out in duplicate a list of all the hail insurance applications filed in his office, keeping one copy for his records and forwarding the other copy to the department of trade and commerce at Lincoln, Nebraska.

Sec. 5. **Premiums assessed and collected as taxes.**—The county board which shall make the annual tax levy shall assess, and the county clerk in making the county tax lists shall include as an assessment on the personal property of any person making an application for state hail insurance under the provisions of this article, the amount of the premiums due on the policy issued on the basis of said application, and the same shall be collected in the same manner as other personal taxes. The county treasurer shall keep a separate account of all money collected from state hail insurance premiums and as soon as possible shall pay same over to the State Treasurer, taking his receipt therefor.

Sec. 6. **Adjuster of losses.**—The county commissioner of each county shall at the April meeting of the board appoint one competent person who shall be a resident of the county to act as official adjuster of losses or damages caused by hail to any crop that has been insured under the provisions of this article. If the county commissioners fail or neglect to appoint an official adjuster as herein required the department of trade and commerce shall appoint an official adjuster for such county and such official adjuster shall have all the powers and perform all the duties imposed upon official adjusters appointed by the county commissioners, according to the provisions of this article. The county clerk shall immediately after such appointment, notify the department of the same, and no such appointment shall be effective unless confirmed and approved by the department. The department shall have power and authority to remove or discharge any such official adjuster for misconduct, incompetency or neglect of duty, and may direct such official adjuster to adjust losses or damages caused by hail to any crop insured under the provisions of this article in any county or counties in this state adjacent to the county in which he was appointed. The official adjuster shall receive as compensation for his services the sum of five (\$5.00) dollars per day and his actual and necessary expenses while engaged in the actual and necessary performance of his duty. The official adjuster shall adjust losses or damages caused

by hail to any crop that has been insured under the provisions of this article, and it is hereby made his duty to adjust all losses and damages within his county, or within any other county or counties adjacent to the county in which he is appointed when so directed by the department. If a loss is sustained the insured shall promptly notify the department of such loss. The department shall, as soon as possible after receiving the notice of loss direct an official adjuster to visit the place of loss and proceed to estimate and adjust such loss. In so doing, it shall be his duty to carefully inquire into the condition of the crop before the loss occurred, as to whether it was poor, medium or good, and if he deems it necessary he shall have the power to call witnesses to testify as to the condition of the crop before the same was damaged or destroyed and he shall make his estimate and adjustment after ascertaining the condition of the crop before and after the loss occurred.

The official adjusters shall first determine the percentage of damage to the crop. In case of total loss if the value of the crop per acre be less than the amount of insurance per acre the insured shall receive the total value of the crop. In case of partial loss the insured shall receive that percentage of the amount of insurance which the loss bears to the total value of the crop insured. If the value of the crop per acre exceeds the amount of insurance per acre the insured shall receive the percentage of the amount of insurance which the loss bears to the value of the crop, but in no case in excess of the face of the policy.

Sec. 7. (Ch. 188, 1917) **Adjustment of losses.**—In case the party who has sustained the loss is dissatisfied with and refuses to accept the adjustment made by the official adjuster, then he shall have the right to appoint one disinterested person as adjuster, and the official adjuster shall appoint another person as adjuster, and the two shall elect a third disinterested person, and the three shall then proceed to adjust the loss in the same manner as specified in section 6, and the judgment of the majority shall be the judgment of said adjusters and shall be binding upon both parties as the final determination of said loss: Provided, however, that if the insured does not recover a greater sum than allowed by the official adjuster in the first instance, he shall pay the expenses of the said three adjusters and their wit-

nesses in making said adjustment, but if he receives a larger sum, then the same shall be paid by the department of trade and commerce out of the hail insurance fund.

Sec. 8. **(Ch. 188, 1917) Report of adjustment.**—At the final adjustment of each loss the adjuster shall then and there carefully fill out and make a report in triplicate on an adjustment blank prepared for him for that purpose, stating the county, township and range, the number of the section and the quarter of the section or sub-division thereof on which the crop was damaged or destroyed, also the number of acres and different kinds of grain estimated damaged or destroyed, stating the amount allowed for each separately, and that such estimate is true and not in excess of the actual loss sustained, which said adjustment papers must be signed and sworn to by the official adjuster, or all the adjusters when arbitration is resorted to, acting as adjuster, and the party whose loss has been adjusted, with the residence and the post office address of both. The official adjuster shall, within a reasonable time, not to exceed five days, forward by registered mail said adjustment papers, the original to the department of trade and commerce at Lincoln, Nebraska, one copy to the county clerk and one copy to the insured.

Sec. 9. **Compensation of adjusters.**—The official adjuster shall receive as compensation for his services the amount specified in section 6 of this article. All persons called on to assist in adjusting a hail loss, whether acting as adjusters or as witnesses, shall receive the sum of two (\$2.00) dollars per day for all services so rendered. The official adjuster shall itemize said expense account for each loss or adjustment made, which account must be sworn to and forwarded to the department of trade and commerce, and the same shall upon being approved by the department of trade and commerce, be paid out of the state hail insurance fund, on warrants drawn by the state auditor. Provided, however, that such adjuster or adjusters shall not be entitled to receive or be paid any compensation or expenses as herein provided, unless all adjustments by him made shall be reported to the department of trade and commerce, as required in this article, within ten days from the time such adjustment or adjustments were made.

Sec. 10. **Insurance fund—how kept.**—The state treasurer shall keep all moneys paid by the several county treasurers from the collections of hail insurance in a separate fund to be designated and known as the "hail insurance fund", and the treasurer shall pay out of said fund only upon warrants of the state auditor.

Sec. 11. **Losses in excess of income.**—When the several county clerks of this state shall have made complete returns showing the number of acres insured for that year the department of trade and commerce shall sum up the total hail insurance fund for that year. When it shall have received a complete return from all of the hail losses in the state as adjusted and allowed, it shall sum up the total of such amounts for that year. It shall sum up the expenses of its office as follows:

First: The total amount allowed for adjusting losses.

Second: The total amount estimated necessary for deputies, assistants, employes and clerk hire for said year.

Third: The amount estimated necessary for books, blanks, stationery, postage and other expenses incident to the running and operating of the same for one year. The total sum of such expense account shall first be deducted from the total amount of the hail insurance receipts for that year and paid, and if the balance remaining is sufficient all hail losses shall be paid in full as allowed by the adjusters, but if the expenses and hail losses shall exceed the amount of hail insurance receipts for that year, the expenses shall be paid first and the losses shall be paid pro rata. If a surplus remains, it may be drawn upon to pay deficiencies in future years.

Sec. 12. **Neglect of county clerk—penalty.**—Any county clerk who shall fail or neglect to make complete returns, statements and reports, as required in this article, to the department of trade and commerce as soon as possible or at the times specified in any section of this article, shall forfeit the sum of ten (\$10.00) dollars per day for each day during which he neglects to make such statements, returns or reports to the department of trade and commerce, and upon complaint or notice by the state department of trade and commerce to the attorney general of the state, it shall be the duty of the attorney general to proceed to collect the amount of such penalty from any delinquent clerk.

Sec. 13. **Report of losses—county clerk make.**—When the department of trade and commerce has computed the whole year's business, which shall be as soon as possible after the returns have come in, as indicated in section eleven hereof, it shall prepare and furnish to the state auditor a certified list of the losses arranged by counties, showing the names and addresses of persons who have suffered loss by hail and are entitled to compensation for such losses under the provisions of this article, the appraised losses and the amount to be paid each such person; upon receipt of this list from the department of trade and commerce it shall be the duty of the state auditor immediately to draw warrants for said amounts upon the state treasurer, the amounts of which shall be charged to the state hail insurance fund, in favor of each person entitled thereto, and to mail such warrants forthwith to each person entitled thereto, as shown by the certified list of the department of trade and commerce aforesaid. It shall also be the duty of the department of trade and commerce to mail a copy of each such list of losses and amounts allowed to each and every person named in such list and who has suffered loss by hail during the year for which such list is made.

Sec. 14. **Assignment or mortgage of crop.**—In every case where the crops insured have been assigned the proceeds shall be paid to the assignee, or to the mortgagee in cases where the insured so directs.

Sec. 15. **General Report of insurance.**—The department of trade and commerce shall on or about the first day of December in each year issue and publish in four newspapers of general circulation within the state a concise statement of the work and condition of the hail insurance department during the preceding year. It shall also make a biennial report to the legislature.

ARTICLE XV.

RECIPROCAL INSURANCE.

Section 1. (Ch. 189, Laws 1917) **Reciprocal insurance.**—Individuals, partnerships, and corporations in this state hereby designated as subscribers, are hereby authorized to exchange reciprocal or inter-insurance contracts with each other or with

individuals, partnerships and corporations of other states and countries providing indemnity among themselves from any loss which may be insured against under other provisions of the laws excepting life insurance.

Sec. 2. **Agent may execute.**—Such contracts may be executed by an attorney, agent or other representative herein designated attorney, duly authorized and acting for such subscribers. The office or offices of such attorney may be maintained at such place or places as may be designated by the subscribers in the power of attorney.

Sec. 3. **Declarations—filing, etc.**—Such subscribers so contracting among themselves, shall, through their attorney, file with the department of trade and commerce a declaration verified by the oath of such attorney, or where such attorney is a corporation, by the oath of the chief officer thereof, setting forth:

(a) The name or title adopted by such subscribers proposing to exchange such indemnity contracts. Such name or title shall not be so similar to any other name or title previously adopted by a similar organization or by any insurance corporation or association as in the opinion of the department of trade and commerce is likely to result in confusion or deception.

(b) The kind or kinds of insurance to be effected or exchanged.

(c) A copy of the form of policy contract or agreement under or by which such insurance is to be effected or exchanged.

(d) A copy of the form of power of attorney or other authority of such attorney under which such insurance is to be effected or exchanged.

(e) The location of the office or offices from which such contracts or agreements are to be issued.

(f) That applications have been made for indemnity upon at least seventy-five separate risks aggregating not less than one and one-half million dollars as represented by executed contracts or bona fide applications to become effective concurrently; or, in the case of Employers Liability or Compensation Insurance, at least seventy-five separate risks covering a total pay-roll of not less than one and one-half million dollars.

(g) That there is on deposit with such attorney and available for the payment of losses, a sum of not less than fifty thousand dollars, except that in case of employers liability and compensation insurance such sum shall be not less than one hundred thousand dollars.

Sec. 4. **Bond—process.**—Concurrently with the filing of the declaration provided for by the terms of section 3 hereof the attorney shall file with the department of trade and commerce an instrument in writing executed by him for said subscribers, conditioned that upon the issuance of certificate of authority provided for in section 10 hereof, action may be brought in the county in which the property insured thereunder is situated and service of process may be had upon the secretary of the department of trade and commerce in all suits in this state arising out of such policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or inter-insurance contracts through such attorney. Three copies of such process shall be served and the department of trade and commerce shall file one copy, forward one copy to said attorney and return one copy with his admission of service. Such instrument shall further provide that in all suits arising in this state on account of contracts issued by such attorney for the account of said subscribers, such action may be brought against such attorney as attorney in fact for all subscribers at such reciprocal or inter-insurance exchange, and the judgment in the action shall be a judgment against and binding upon each of the subscribers, as their respective interests may appear.

Sec. 5. **Amount of insurance limited.**—There shall be filed with the department of trade and commerce by such attorney, a statement under oath of such attorney showing the maximum amount of indemnity upon any single risk and such attorney shall, whenever and as often as the same shall be required, file with the department of trade and commerce a statement verified by his oath giving such information.

Sec. 6. **Reserve.**—There shall at all times be maintained with such attorney as a reserve, a sum in cash or convertible securities equal to fifty per cent of the aggregate net annual deposits collected and credited to the accounts of the subscribers

on policies having one year or less to run and pro rata on those for longer periods plus claim and loss reserves as required for the same kind of insurance in other cases; or in lieu thereof at the option of the attorney, one hundred per centum of the aggregate net unearned deposits collected and credited to the accounts of participating subscribers plus such claim and loss reserves. Net annual deposits shall be construed to mean the advance payments of subscribers after deducting therefrom the amounts specifically provided in the subscribers' agreements for expenses. Said sum in reserve shall at no time be less than fifty thousand dollars and in case of employers liability and compensation insurance not less than \$100,000.00, and if at any time such reserve computed as provided herein and so collected and credited shall not equal the amount hereby prescribed, then the subscribers or their attorney for them, shall make up any deficiency. In calculating such reserves, the amounts provided for in subdivision "g" section 3, shall be included. Provided also that in case of workmen's compensation insurance the department of trade and commerce may require of any such attorney a bond or deposit of money with a bank or trust company of this state for the purpose of securing deferred payments or installments for compensation benefits provided for by the workmen's compensation act of Nebraska.

Sec. 7. Annual statement of business.—Such attorney shall within the time limited for filing the annual statement by insurance companies transacting the same kind of business, make a report to the department of trade and commerce for each calendar year showing the financial conditions of affairs at the office where such contracts were issued and shall furnish such additional information and reports as may be required: Provided, however, that the attorney shall not be required to file the names and addresses of any subscribers. The business affairs, records and assets of such organization shall be subject to examination by the department of trade and commerce at the expense of the organization examined.

Sec. 8. Who may execute reciprocal policies.—Any corporation now or hereafter organized under the laws of this state, shall, in addition to the rights, powers and franchises specified in its articles of incorporation have full power and authority to

exchange insurance contracts of the kind and character herein mentioned. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred.

Sec. 9. **Violation—penalty.**—Any attorney who shall exchange any contracts of indemnity of the kind and character specified in this article or any attorney, agent or any person representing him, who shall solicit or negotiate any application for same without the attorney first complying with the foregoing provisions shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars. For the purposes of organization and upon issuance of permit by the department of trade and commerce, powers of attorney and applications may be solicited without license, but no attorney, agent or other person shall make any contracts of indemnity until he shall comply with the provisions of this article.

Sec. 10. **Certificate of authority.**—Each attorney by or through whom are issued any policies of or contracts for indemnity of the character referred to in this article, may procure from the department of trade and commerce annually a certificate of authority stating that all the requirements of this article have been complied with and upon such compliance and the payment of the fees and taxes required by this article, the department of trade and commerce shall issue such certificate.

Sec. 11. **Penalties.**—In addition to the foregoing penalties and where not otherwise provided, the penalty for failure or refusal to comply with any of the terms and provisions of this article upon the part of the attorney shall be the refusal, suspension or revocation of certificate of authority or license by the department of trade and commerce and publication of his act, after due notice and opportunity for hearing has been given such attorney so that he may appear and show cause why such action should not be taken.

Sec. 12. **License fee.**—Such attorney in lieu of all taxes in this state shall pay to the state the sum of \$20.00 as an annual license fee, and a tax of two (2) per cent of the gross premiums

or deposits received from Nebraska subscribers during the calendar year less all amounts returned to the subscribers or credited to their accounts.

Sec. 13. **General insurance laws not applicable.**—The making of contracts as hereinbefore provided for and such other matters as are properly incident thereto shall not be subject, unless specifically mentioned, to the laws of this state relating to insurance concerns except as provided in this article.

ARTICLE XVI.

BANKS.

Section 1. **(284) Department of trade and commerce—general control.**—The department of trade and commerce shall have general supervision and control of banks and banking under the laws of this state and no person or persons shall be permitted to engage in or transact a banking business save corporations having complied with the provisions of this article. Said department of trade and commerce shall succeed to all the rights, powers, duties and responsibilities of the state banking board as now existing and as such shall be entitled to all the records, books, files and papers thereof, and shall exercise all the powers and discharge all the duties of such board under the laws of this state.

Sec. 2. **(280) Banking a quasi-public business.**—The business of banking, or the receiving of deposits of money or instruments of credit subject to be repaid upon check, draft, certificate, passbook or order; the discounting negotiating of promissory notes, drafts, bills of exchange, and other evidences of debts; and the loaning of money upon personal or other security is hereby declared to be a quasi-public business and subject to regulation and control by the state.

Sec. 3. **(281) Unlawful banking—penalty.**—It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking business within this state, except by means of a corporation duly organized for such purpose under the laws of this state. It shall be unlawful for any corporation to receive money upon deposit or transact a banking business under the laws of this state, until said corporation shall

have complied with all the provisions and requirements of this article. Any violation of the provisions of this section shall subject the corporation, partnership, firm or individual so offending to a penalty of twenty-five dollars for each day of the continuation of such offense, and be cause for the appointment of a receiver as hereinafter provided, to wind up such banking business.

Sec. 4. (282) **Term "bank" construed.**—The term "bank" or "banking corporation" as used in this article shall be construed to mean any incorporated banking institution which shall have been incorporated under the laws of this state as they existed prior to the taking effect of this article, and such banking institutions as shall hereafter become incorporated under the provisions of this article. The term "commercial bank" shall be construed to mean any such banking institution as shall be, in addition to the exercise of other powers, following the practice of re-paying deposits upon check, draft or order, and of making commercial loans chiefly. The term "savings" bank shall be construed to mean any such banking institutions as shall, in addition to the exercise of other powers, follow the practice of re-paying deposits upon check, draft or order, and of making commercial loans chiefly. The term "savings" bank shall be construed to mean any such banking institution as shall, in addition to the exercise of other powers, follow the practice of re-paying deposits only upon presentation of pass books and which may require notice to be given by depositors before repaying deposits, and whose loans are chiefly made on real estate security.

Sec. 5. (283) **"Lawful money" construed.**—The term "lawful money" as used in this article shall be construed to mean all coin, United States notes, treasury notes, gold certificates, silver certificates, national bank notes, and all other forms of money issued by or which may hereafter be issued by or under the authority of the United States, as a circulating medium, and shall also be construed to mean any form of certificate which is now or may hereafter be declared to be lawful money of the United States.

Sec. 6. (287) **Examinations**—The department of trade and commerce, shall have power to make a thorough examination into all the books, papers and affairs of any corporation transacting a banking business in this state, and in so doing to administer

oaths and affirmations and to examine on oath or affirmation the officers, agents and clerks of such corporation, touching the matter which they may be authorized and directed to inquire into and examine and to summon, and by attachment compel the attendance of any person or persons in this state to testify under oath in relation to the affairs of such corporation. Such bank examination shall be in the presence of at least two of the board directors of the bank undergoing said examination, and it shall be the duty of the examiner to incorporate in his report the names of the directors in whose presence the examination was made.

Sec. 7. (288) Fees for examination—Every bank thus examined shall pay to the state treasurer, within ten days after the completion of such examination, the following fees, to be credited to the general fund: Banks with total resources of twenty-five thousand dollars or less, a fee of fifteen dollars; banks with total resources of more than twenty-five thousand dollars, a fee of fifteen dollars for the first twenty-five thousand dollars and two cents per thousand dollars for all resources in excess of twenty-five thousand dollars and up to five million dollars, and one cent per thousand dollars for all resources in excess of five million dollars. The department of trade and commerce shall have discretionary power to determine the particular examinations to be made in any calendar year.

Sec. 8. (289) Possession of bank by examining department or its agent.—The department of trade and commerce shall have authority to take possession of any bank doing business under the laws of this state, and to retain possession of such bank for a time sufficient to make a thorough examination into its affairs and financial condition and if, upon such examination, it be found that said bank is insolvent, or is conducting its business in an unsafe or unauthorized manner, or is endangering the interests of its depositors, then said department shall have full power and authority to immediately take possession of said bank and retain possession of all money, rights, credits, assets and property of every description belonging to such bank, as against any mesne or final process issued by any court against such bank or corporation whose property has been taken, until a receiver can be appointed as hereinafter provided. Whenever the officers,

stockholders or owners of any insolvent bank shall give good and sufficient bond running to the State of Nebraska, with an incorporated surety company authorized by the laws of this state to transact such business, conditioned upon the full settlement of all the liabilities of such bank by such officers, stockholders or owners within a stated time, and said bond shall have been approved by the department of trade and commerce, then the department shall turn over all the assets of such bank to the officers, stockholders or owners of such bank furnishing the said bond, reserving the same rights to require report of the condition and to examine into the affairs of the said bank as existed in said department previous to its closing, and if, upon such examination, it be found by said department that said stockholders or owners are not closing up the affairs of said bank in such manner as to liquidate the liabilities of the bank and close up the affairs of said bank in a manner satisfactory to the department, within a reasonable time, the department shall take immediate possession of said bank and have a receiver appointed as hereinafter provided.

Sec. 9. (290) Charter.—No person or corporation shall conduct a bank or engage in or transact a banking business in this state without having first obtained a charter from the department of trade and commerce in the manner hereinafter provided.

Sec. 10. (291) Directors—qualifications.—A majority of the members of the board of directors of any banking corporation transacting business under the provisions of this article shall be residents of the county wherein such bank is located, or of the counties immediately adjacent thereto, and every director of a commercial bank having a capital of fifty thousand dollars or less must be the owner of at least four per cent of the paid-up capital stock in his own name and right, and of a commercial bank with a capital of more than fifty thousand dollars every director shall own and hold in his own name and right not less than three thousand dollars of paid-up capital stock. The ownership of five shares of the capital stock of a savings bank shall qualify the owner to be elected as a director of such bank.

Sec. 11. (292) Capital stock—amount.—A charter for a commercial bank shall not issue unless the corporation applying

therefor shall have a paid-up capital stock as follows: In any case not less than ten thousand dollars; where a bank is located in a village of more than one hundred and less than five hundred inhabitants, not less than fifteen thousand dollars; in villages of five hundred or more, and less than one thousand inhabitants, not less than twenty thousand dollars; in cities or villages of one thousand or more, and less than two thousand inhabitants, not less than twenty-five thousand dollars; in cities or villages of two thousand or more, and less than five thousand inhabitants, not less than thirty-five thousand dollars; in cities of five thousand or more, and less than twenty-five thousand inhabitants, not less than fifty thousand dollars; in cities of twenty-five thousand or more, and less than one hundred thousand inhabitants, not less than one hundred thousand dollars; in cities of one hundred thousand or more inhabitants, not less than two hundred thousand dollars.

Sec. 12. **Minimum paid up capital stock of savings banks.**—The minimum paid-up capital of a savings bank shall be fifteen thousand dollars. Where a savings bank is located in a city of more than fifty thousand and less than one hundred thousand inhabitants, the paid-up capital shall be not less than thirty-five thousand dollars. In cities of one hundred thousand or more inhabitants, the paid-up capital of savings banks shall be not less than seventy-five thousand dollars. Such paid-up capital, including the initial and subsequent payments, shall consist at the time, of lawful money, credit with depository banks, to be approved by the department, national, state, county or municipal bonds, bank furniture and the necessary bank building, and the lot or lots upon which such building is situated, which said lot or lots shall be free from incumbrance. National, state, county and municipal bonds shall not constitute in the aggregate more than one-half, nor the bank building and the lot or lots upon which it is situated together with the bank furniture and fixtures more than one-third of the paid-up capital, nor shall such furniture and fixtures constitute more than one-third of the paid-up capital, nor shall such furniture and fixtures constitute more than one-tenth thereof.

Sec. 13. **(Ch. 165, R. S. 1917) Capital stock—sale above par—when.**—No person shall bid or solicit for the purchase of

bank stock above par either in person or by mail until the corporation whose stock is offered, is organized according to law and is engaged in actual banking business, and any person who shall be found guilty of violating the provisions of this section shall be fined in any sum not exceeding three hundred (\$300.00) dollars and be imprisoned in the county jail not to exceed 90 days and shall stand committed to the county jail until said fine and the costs of prosecution are paid.

Sec. 14. **(293) Report—certificate.**—Every corporation organized for transacting a banking business under the laws of this state which has not been granted the certificate provided for in this section prior to the 4th day of April, 1919, shall, not less than thirty days before it shall have been open for business for a period of two years, either under the laws of this state or of the United States, file with the department of trade and commerce a full, complete and detailed report of its condition, and the department, upon examination of the report and approval of the same, if satisfied that such corporation has complied with the requirements of this article, and has been conducting a banking business in compliance with the laws of this state and in accordance with the rules of the department, or with the laws of the United States and the rules thereof for a period of two years, shall issue to said banking corporation a certificate stating that said banking corporation has complied with the laws of this state for the protection of bank depositors, and that its depositors are protected by the depositors' guarantee fund of the State of Nebraska. Every banking corporation receiving such certificate shall conspicuously display the same in its place of business and said banking corporation may print or engrave upon its stationery words to the effect that its depositors are protected by the depositors' guarantee fund of the State of Nebraska. The printing or engraving by any bank of a false statement advertising such guarantee is hereby declared to be a violation of the provisions of this article.

Sec. 15. **(294) Preliminary statement.**—Every corporation organized for and desiring to transact a banking business shall before commencing such business, make, under oath, and transmit to the department of trade and commerce complete a detailed statement of:

First—The name of the proposed bank;

Second—A certified copy of the articles of incorporation;

Third—The names of the stockholders;

Fourth—The county, city or village in which the said proposed bank is located;

Fifth—The nature of proposed banking business, whether commercial or savings;

Sixth—The amount of paid-up capital stock, and the items of money and property included in said amount.

Sec. 16. (295), **Certificate and charter—fees.**—Whenever, after the examination and approval by the department of trade and commerce, of the statement provided for in the next preceding section, the corporation shall file with the department, the oath of the president, or cashier, that the capital stock has been paid in as provided for, and in compliance with section 11 of this article, then if the department upon investigation, shall be satisfied that the parties requesting said charter are parties of integrity and responsibility, the department shall, upon the payment of certain fees as hereinafter provided, issue to said corporation the certificate provided for in section 14 and a charter to transact the business provided for in its articles of incorporation. The fees for such charters to engage in the business of banking shall be as follows. For banks having a capital of twenty-five thousand dollars or less, the fee shall be twenty-five dollars; for banks having a capital of twenty-five thousand dollars up to and including fifty thousand dollars, the fee shall be twenty-five dollars, and fifty cents for each additional thousand above twenty-five thousand dollars; for banks having a capital in excess of fifty thousand dollars the fee shall be thirty-seven and fifty-one hundredths dollars, and twenty-five cents for each additional thousand above fifty thousand dollars. The above fees shall be paid to the department of trade and commerce and by them paid to the state treasurer who shall place the same in the general fund of the state. On payment of the required fees and the receipt of the charter the proposed bank may begin to transact a banking business.

Sec. 17. (296) **Reports.**—Every corporation transacting a banking business hereunder shall make to the department of

trade and commerce not less than four reports during each year according to the form which may be prescribed by said department, which reports shall be verified by the oath or affirmation of the president, vice-president or cashier, and in addition two of the board of directors. But the officer administering the oath or affirmation to the person verifying such report shall be in no way interested in such bank as an officer, director or stockholder.

Sec. 18. (297) **Same—contents—publication.**—The reports provided for in section 17 of this article shall state the amount loaned upon bonds and mortgages; the amount loaned upon notes, bills of exchange, over-drafts and other personal securities, with the actual market value of such securities; the amount of rediscounts and of commercial paper past due; the amount invested in real estate, giving the cost of the same; the amount of cash on hand and on deposit in banks or trust companies, with their names and the amount deposited in each; the amount of all other assets not enumerated above, and such other information as the department of trade and commerce may require: Provided, commercial paper not in process of collection, six months past due, and demand paper carried one year with interest unpaid, shall not be included in the report of the assets of such corporation. Each report shall state such resources and liabilities at the close of business on any past day by the department of trade and commerce specified and shall be transmitted to said department within five days after the receipt of a request or requisition therefor. A summary of such report in the form prescribed by the department of commerce shall be published in the place where such banking business is transacted, or if there is no newspaper in the place, then in one published in the same county, at the expense of such bank. Proof of such publication shall be transmitted to the department within twenty days from the date fixed for such report.

Sec. 19. (298) **Special reports.**—Any corporation transacting a banking business under this article shall be required to furnish such special reports as may be required from the department of trade and commerce to enable such department to obtain full and complete knowledge of the condition of such corporation.

Sec. 20. (299) **Failing to report—banking without charter.**—Any corporation, that shall fail, neglect or refuse to make or

furnish any report, or any published statement required by the provisions of this article, or that shall transact a banking business without having first obtained a charter therefor and the certificate provided for in section 14 of this article, in accordance with the provisions of this article, shall be subject to a fine or penalty of fifty dollars per day for each day after the time named for said report or statement to be made that it delays to make and transmit such report or statement to the department of trade and commerce; and for each day on which any such corporation shall be engaged in transacting a banking business in violation of the provisions of this article. The fine or penalty herein provided for shall be recovered by the state, in a civil action in any court of competent jurisdiction, and it is hereby made the duty of the attorney general to enforce the fine or penalty herein provided.

Sec. 21. (300) **False entry or statement—penalty.**—Any person who shall wilfully and knowingly subscribe to, or make, or cause to be made, any false statement or false entry in the books of any corporation transacting a banking business under this article, or shall knowingly subscribe to or exhibit false papers, with the intent to deceive any person or persons authorized to examine into the affairs of any such corporation, or shall make, state or publish any false statement of the amount of the assets or liabilities of any such corporation, shall be deemed guilty of a felony and upon conviction thereof, shall be imprisoned in the state penitentiary not less than one year nor more than ten years.

Sec. 22. (301) **Reserves.**—Savings banks shall maintain a cash reserve, in available funds, of at least five per cent of their deposits. Other banks, in cities having a population of twenty-five thousand, shall maintain a reserve, in available funds, of at least twenty per cent of their deposits, two-fifths of which shall be in cash in the bank. Outside of such cities, such banks shall maintain a reserve of at least fifteen per cent of their deposits, one-third of which shall be cash in the bank. No portion of the reserve, not required to be in cash, shall be kept except in a depository approved by the department. Two-fifths of the cash reserve may be carried in Liberty or other United States Government Bonds, at their market value.

Sec. 23. **(302) Available funds.**—The available funds shall consist of cash on hand and balances due from other solvent banks. Cash shall include lawful money of the United States, and exchange for any clearing house association. Whenever the available funds of any bank shall fall below the reserve herein required, such bank shall not make any new loans or discount otherwise than by discounting or purchasing bills of exchange payable at sight; nor shall such bank make any dividends of its profits until it has on hand the available funds required by this article. The department of trade and commerce may notify any bank, in case its reserve shall fall below the amount required, or its capital is impaired to make good such reserve or capital within such time as the department of trade and commerce may direct, and any failure of such bank to make good any deficiency in the amount of its reserve or its capital, within the time directed, shall be cause for the appointment of a receiver as hereinafter provided.

Sec. 24. **(303) Re-discounts—bills payable—loans.**—The aggregate amount of the rediscounts and bills payable of any corporation transacting a banking business in this state shall at no time exceed the amount of its paid up capital and surplus, except for the payment of its depositors, nor shall any bank other than savings banks at any time permit its loans and investments, exclusive of its reserve and banking house and fixtures, to exceed in the aggregate fifteen times the amount of its capital and surplus. Any state bank becoming a member of the Federal Reserve System may, however, have the same privileges as to rediscounts and bills payable with Federal Reserve banks and may incur liabilities to such banks to the same extent as national banks.

Sec. 25. **(304) Stock—purchase—loans on.**—No corporation transacting a banking business shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, or the shares of any corporation, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and such stock so purchased or acquired shall, within six months from the time of its purchase be sold or disposed of at public or private sale; or in default thereof, a receiver may be appointed to close up the business of the bank: Provided, in

no case shall the amount of stock so held exceed ten per cent of the paid-up capital of such bank.

Sec. 26. **(305) Board of directors.**—The affairs and business of any banking corporation transacting business under the laws of this state shall be managed or controlled by a board of directors of not less than three and not more than fifteen members who shall be selected from the stock-holders, at such time and in such manner as may be provided by the articles of incorporation of the corporation and in conformity with the provisions of this article. The board shall select from among its number the president and secretary, and shall select a cashier. Such officers shall hold their office for a term of one year and until their successors are elected and qualified. The board of directors shall have power to require the cashier and any or all its officers having care of the funds of the bank, to give good and sufficient bond, which bond shall run to the banking corporation, to be approved by the board of directors and held by the state banking board. The board of directors shall hold at least two regular meetings each year, and at such meetings a thorough examination of the books, records, funds and securities held by the bank shall be made and recorded in detail upon its record book, and a certified copy thereof shall be forwarded to the department of trade and commerce within ten days.

Sec. 27. **(306) Interest on deposits.**—No banking corporation transacting a banking business under this article shall pay interest on deposits directly or indirectly at a greater rate than five per cent per annum. Any officer, director or employee of a bank violating the provisions of this section directly or indirectly, shall be deemed guilty of a felony and on conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the state penitentiary not exceeding three years, or both.

Sec. 28. **(307) Dividends — surplus.**—Any corporation transacting a banking business under this article may semi-annually declare a dividend of so much of the net profits as it may deem expedient, but such corporation shall, before the declaration of a dividend, carry one-fifth part of its net profits to its surplus fund, until the same shall amount to twenty per centum of its paid-up capital stock.

Sec. 29. **(308) Real estate.**—Any corporation transacting a banking business under this article may purchase, hold and convey real estate for the following purposes only:

1. Such as is necessary for the convenient transaction of its business, not exceeding in value one-half of the paid-up capital;

2. Such as shall be conveyed to it for debts due the bank; and,

3. Such as it shall purchase at sale under judgments or decrees upon its securities, but the bank at such sale shall not bid a larger amount than required to satisfy such judgments or decrees with costs. Real estate acquired in satisfaction of debts or at a sale upon judgments or decrees shall be sold at private or public sale within five years. The total amount of real estate held by any bank for any purpose shall not, at any one time, exceed seventy-five per cent of its paid-up capital. Savings banks shall not be subject to the provisions of this section.

Sec. 30. **(309) Receiving deposits when insolvent.**—No corporation transacting a banking business under this article shall accept or receive on deposit for any purpose any money, bank bills, United States treasury notes or currency, or other notes, bills, checks, drafts, credits or currency, when such corporation is insolvent, and if any corporation transacting a banking business under this article shall receive or accept on deposit any such deposits when said corporation is insolvent, the officer, agent or employee knowingly receiving or accepting or being accessory to, or permitting or conniving at the receiving or accepting on deposit therein or thereby, any such deposit as aforesaid, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one year nor more than ten years.

Sec. 31. **(310) Name.**—It shall be unlawful for two or more banks, transacting a banking business in the same city or village in this state to have or use the same name, or names so nearly alike as to cause confusion in transacting business, and in all cases where such similarity of names now exists, or may hereafter exist, complaint may be made to the department of trade and commerce, and if, in the judgment of said department,

such a similarity does exist, and does create confusion in conducting the business of either or both of said banks, then said department may require the junior bank in time of organization to so change or modify its name as to prevent such confusion, and the change of name so made shall be approved by said department.

Sec. 32. (311) Loans to officers and employees forbidden.

—No officer other than a director, who is not an officer, and no employee of any corporation transacting a banking business, under this article shall be permitted to borrow any of the funds of the bank, directly or indirectly, and no director of a bank shall be permitted to borrow any of the funds of the bank without first having secured the approval of the board of directors at a meeting thereof, the record of which shall be made and kept as part of the records of said bank. Any officer, director or employee of a corporation transacting a banking business under this article, who shall violate the provisions of this section or who shall aid, abet or assist in a violation thereof, shall be deemed guilty of a felony, and on conviction thereof, shall be punished by a fine not exceeding one thousand dollars or imprisonment in the penitentiary not to exceed five years, or both.

Sec. 33. (312) Amount of loan.—No corporation transacting a banking business in this state shall directly or indirectly loan to any single corporation, firm or individual, including in such loans all loans made to the several members or shareholders, of such firm or corporation, for the use and benefit of such firm, corporation or individual, more than twenty per cent of the paid-up capital and surplus of such bank, but the discounting of bills of exchange, drawn in good faith, against actually existing values, and the discount of commercial paper actually owned by the persons negotiating the same, shall not be considered as money borrowed and in no case shall the total liabilities of the several stockholders of any bank to such bank exceed fifty per cent of the paid-up capital and surplus of such bank. Any officer, director, or employee of any corporation transacting a banking business under the laws of this state, who shall violate, or knowingly permit a violation of the provisions of this section, upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars. The provisions of this section shall not apply

to the securities of savings banks enumerated in the third following section of this article.

Sec. 34. (313) Capital not impaired—change in capital stock.—No corporation transacting a banking business under this article shall withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any part of its capital. If losses have at any time been sustained, equal to or exceeding the undivided profits on hand, no dividend shall be made; and no dividend shall be made by any bank transacting a banking business under the laws of this state, to an amount greater than the net profits on hand, less the losses and bad debts. The capital stock may be increased or decreased, in the manner following:

1. The stockholders at any regular meeting or at any special meeting duly called for such purpose shall by a vote of those owning two-thirds of the capital stock, authorize the president or cashier to notify the department of trade and commerce of the proposed reduction or increase of capital and a notice containing a statement of the amount of such proposed reduction or increase of capital shall be published for four weeks in some newspaper published and of general circulation in the county where such bank is located. Reduction of capital shall be discretionary with the department of trade and commerce but shall be denied if granting the same would reduce the capital below the requirements of this article or would impair the security of the depositors. No increase shall be authorized until a statement sworn to by the president or cashier shall have been filed with the department, that the proposed increase of capital has been paid in.

2. Whenever any banking corporation shall desire to go into voluntary liquidation it shall first obtain the written consent of the department of trade and commerce, which may, before granting such request, order a special examination made of the affairs of such bank, for which the same fees may be collected as in regular examination.

Sec. 35. (314) Stockholder's liability.—Every stockholder in a banking corporation shall be individually liable to its creditors, over and above the amount of stock by him held, to an amount equal to his respective stock or shares so held, for all its liabilities accruing while he remains such stockholder. In

case any stockholder shall sell, transfer or dispose of such stock, knowing that such bank is insolvent, he shall be deemed the owner of such stock, and liable thereon the same as if such stock had not been sold, transferred or disposed of; and such liability may be enforced whenever such banking corporation shall be adjudged insolvent without regard to the probability of the assets of such insolvent bank being sufficient to pay all of its liabilities.

Sec. 36. **(315) Savings banks — powers — deposits.**—Any savings bank may receive deposits from the general public, which shall be paid to depositors, or their lawful representatives, when required, and at such time and with such interest and under such regulations as shall be prescribed by said bank and approved by the department of trade and commerce. The regulations shall be printed and conspicuously posted in the business office of said bank. The loanable funds of any savings bank, except the reserve provided for in this article, shall be held as cash deposited in solvent banks, or shall be invested in bonds of the United States, or of any state of the United States, in the public debt or bonds of any city, county, township, village or school district of any state of the United States, in other bonds of known marketable value or be loaned on negotiable paper, secured by any of the above mentioned classes of security, or other collateral of known marketable value, or upon notes or bonds secured by mortgage lien upon unencumbered real estate. Second mortgage loans may be made on improved farm lands, but no loans shall be made on such improved farm lands, or other real estate which, including the aggregate amount of incumbrance thereon shall exceed fifty per cent of the cash value thereof. Chattel mortgages shall not be accepted as collateral security by savings banks.

Sec. 37. **(316) Pass books—rules and regulations.**—A pass book shall be issued to each depositor in a savings bank for all money deposited on an open account. Such pass book shall contain the rules and regulations adopted by such savings bank governing such deposits. In such pass books shall be entered each deposit made by, and each payment made to, such depositor, and no deposit shall be received nor payment made unless entered in the pass book at the time such transaction is had. Savings banks

may also issue certificates for deposit. When any deposit is made by a minor, the bank may pay to such minor such sums as may be due to him or her and the receipt of such minor shall be valid.

Sec. 38. (317) List of stockholders kept for inspection.—

The president and cashier, or the business manager, of every banking corporation shall cause to be kept at all times a full and correct list of the names and residences of all its stockholders, the number of shares held by each, and the amount of paid-up capital represented thereby. Such list shall be subject to the inspection of all stockholders and creditors of the bank, during all business hours, and shall be kept in the business office where all stockholders and creditors may have ready access to it. Any violation of this section shall be punishable by a fine of not less than two hundred (\$200.00) dollars, or imprisonment in the county jail not less than thirty nor more than sixty days, or both.

Sec. 39. (318) Certification of checks.—No officer or employee of any bank shall certify any check drawn upon such bank, unless the person, firm or corporation drawing the check has on deposit with the bank at the time such check is certified, an amount of credit on the depositors' ledger of such bank subject to the payment of such check equal to the amount specified in such check; but the amount of such check shall not be recoverable from the payee or holder except in case of fraud. Whenever a check drawn upon any bank is certified by any officer or employee of such bank, the amount thereof shall be immediately charged against the account of the person, firm or corporation drawing the same.

Sec. 40. (319) Improper loan—officer personally liable.—

Any officer or employee of any bank who shall wilfully and knowingly violate any of the provisions of sections 32 and 33 of this article shall be liable under his bond for any loss to the bank resulting therefrom.

Sec. 41. (320) Consolidation with other banks.—Any bank, which is in good faith winding up its business for the purpose of consolidating with some other bank, may transfer its resources and liabilities to the bank with which it is in process of consolidation but no consolidation shall be made without the consent of the department of trade and commerce, nor shall such consolidation operate to defeat the claim of any director or hinder

any creditor in the collection of his debt against such banks or either of them.

Sec. 42. (321) **Voluntary liquidation.**—Any bank may voluntarily liquidate by paying off all its depositors in full, and by paying to the State Treasurer all the moneys held by such bank as its quota of the guarantee fund. The bank so liquidating shall file a certified statement with the department setting forth the fact that all its liabilities have been paid and surrender its certificate of authority to transact a banking business. The department shall cause an examination to be made of any such bank for the purpose of determining that all of its liabilities, except liabilities to stockholders, have been paid. Upon such examination, if it appears that all liabilities other than liabilities to stockholders have been paid, and that the full quota of the guarantee fund has been paid to the State Treasurer, the bank shall cease to be subject to the provisions of this article, and the entire quota of the guarantee fund paid in by such liquidating bank shall become a part of the special reserve for the depositors' guarantee fund, as hereinafter provided. The Special reserve of the depositors guarantee fund shall be held by the State Treasurer and shall by him be invested in bonds of the United States, bonds of any state of the United States, or municipal bonds of any municipality in the State of Nebraska, or bonds of Federal Land Banks and the interest derived from any such investment shall be added to said special reserve from time to time. The State Treasurer shall report annually on the 1st day of January to the department the amounts so received and how invested. The special reserve of the depositors' guarantee fund shall not be drawn against or used except in case the depositors' guarantee fund shall become depleted, but shall be drawn against and used in whole or in part to satisfy any obligations of the depositors' guarantee fund before any special assessment as provided in Section 48 of this article shall be levied or collected. Payments from the special reserve of the depositors' guarantee fund shall be made by the State Treasurer upon orders from the department, and the State Treasurer shall convert the investments of the special reserve of the depositors' guarantee fund into money, or such portion thereof as may be necessary, to satisfy the claims thereof for the payment of deposits in failed banks after apply-

ing the entire depositors' guarantee fund then available but before the levying of special assessments under Section 48 of this article. If two or more banks consolidate and in the consolidation unite their quotas of depositors' guarantee fund, the bank surrendering its charter to effect such consolidation shall not be required to pay its quota to the State Treasurer nor to contribute to the special reserve for the depositors' guarantee fund.

Sec. 43. **(322) Insolvent bank—post notice on door.**—Any bank may place its affairs and assets under the control of the department of trade and commerce by posting on its door the following notice: "This bank is in the hands of the department of trade and commerce." The posting of such notice, or the taking possession of any bank by the department of trade and commerce or by any bank examiner, shall be sufficient to place all of its assets of whatever nature immediately in the possession of the department of trade and commerce and shall operate as a bar to the levying of attachments or executions thereof, and shall operate to dissolve and release any attachments levied thereon within thirty days next preceding such action.

Sec. 44. **(323) Guarantee fund.**—For the purpose of providing a guarantee fund for the protection of depositors in banks, every corporation engaged in the business of banking under the laws of this state, shall be subject to assessment to be levied, kept, collected and applied as hereinafter provided.

Sec. 45. **(324) Same—assessment.**—On the first day of June and December of each year every corporation engaged in banking under the provisions of this article shall make and file with the department of trade and commerce a statement in writing verified by the oath of its president, vice-president or cashier, showing the average daily deposits in its bank for the preceding six months exclusive of public money otherwise secured. Any bank commencing business and receiving deposits less than six months prior to the date when the statement referred to in this section is required to be made and filed, shall show the average daily deposits for that portion of the said semi-annual period during which it has been engaged in business and receiving deposits. Any person making oath to any of the statements herein required, knowing the same to be false, shall be deemed guilty of a felony, and be punished by a fine of not less than one hun-

dred nor more than one thousand dollars, or be imprisoned in the penitentiary for a term of not less than one nor more than five years, or both.

Sec. 46. (325) **New banks—depositors' fund.**—Any bank organized subsequent to the 4th day of April, 1919, shall, within two (2) years after it shall have been opened for business, whether under the laws of this state or the laws of the United States, pay into the depositors' guarantee fund not less than one per cent of the said bank's average daily deposits as shown by the last two semi-annual statements required by the next preceding section. When any bank hereafter organized shall acquire the business and resources of any national banking association, such bank shall pay into the depositors' guarantee fund not less than one per cent of said national banking association's average daily deposits as shown by the report to the comptroller of the currency for the preceding year. Such payment shall not be required of new banks formed by the reorganization or consolidation of banks which have, prior thereto, complied with the law with reference to the payment of assessments. Provided, the contributions to the depositors' guarantee fund from any bank which received its charter prior to the taking effect of this article shall be as provided by law at the time such charter was granted. On the first day of July and January of each year the department shall levy on all banks then engaged in banking under this article, which have completed their initial payment as provided in this section, one-twentieth of one per cent of the average daily deposits as shown by the statements required to be made and filed next preceding such assessments.

Sec. 47. (326) **Assessment—levy—notification.**—As soon as said assessments are respectively levied, the banking corporations against which the same are levied, shall be notified of the amount of such assessment levied against them respectively, by the department of trade and commerce and said banking corporations shall thereupon set apart, keep and maintain in their said banks the amount thus levied against them and the amounts thus levied, kept and maintained shall be and constitute what shall be designated as a depositors' guarantee fund, payable to the department of trade and commerce on demand for the uses and purposes hereinafter provided. When the depositors' guar-

antée fund reaches the total sum of one and one-half per cent of the average daily deposits, said assessments against the deposits of said banks shall cease until such time as the guarantee fund is depleted below one per cent of the average daily deposits, when the necessary assessments may again be levied. No bank which has complied in full with all of the provisions of this article shall be required to give any further security or bond for the purpose of becoming a depository for any public funds, but depository funds shall be secured in the same manner that private funds are secured.

Sec. 48. **(327) Special assessment.**—If the depositors' guarantee fund shall, from any cause be depleted or reduced to an amount less than one per cent. of the average daily deposits as shown by the last semi-annual assessment statements thereof filed, the department of trade and commerce shall levy a special assessment against the capital stock of the corporations governed by the provisions of this article, to cover such deficiency, which special assessment shall be based on the said average daily deposits, and, when required for the purpose of immediate payment to depositors, said special assessment may be for any amount not exceeding one per cent. of said average daily deposits in any one year.

Sec. 49. **(328) Receivership.**—Whenever it shall appear to the department of trade and commerce from any examination or report provided for by this article, that the capital of any corporation transacting a banking business under this article is impaired, that such corporation is conducting its business in an unsafe or unauthorized manner, or is endangering the interests of its depositors, or upon the failure of such corporation to make any of the reports or statements required by the provisions of this article or to comply with all of its provisions, the department of trade and commerce shall communicate the facts to the attorney general, who shall thereupon cause an application to be made to the district court of the county where such corporation maintains its banks, or to any judge of such court, for the appointment of a receiver to take charge of the business, assets and property of every kind of said corporation and to wind up its affairs. If the judge of the district court of the county where such application should be made be absent therefrom at the time

such application is to be made, any judge of the supreme court may appoint such receiver, but all proceedings in relation to such receivership thereafter shall be had before the district court, or a judge thereof, who might have appointed such receiver in the first instance, and the petition and the order appointing such receiver shall be forthwith transmitted to the clerk of such district court.

Sec. 50. (329) **Same—receiver—oath—bond.**—The court or judge, appointing a receiver under the provisions of this article, shall, in the order of appointment, fix the amount of his bond in an amount sufficient to protect all persons interested in the assets and affairs, to be administered by such receiver, and the receiver, before entering upon his duties shall give a bond in the amount thus fixed, with sureties to be approved by the clerk of said court, conditioned that he will faithfully and impartially discharge such duties, and well and truly account for all money and property coming into his hands and disburse the same in conformity to the order of such court of judge, and to the provisions of this article. Upon the approval of such bond and the taking of the oath required by law, the person thus appointed shall have full power and authority, as receiver under the provisions of this article.

Sec. 51. (330) **Credit—how repaired—when reopen.**—After the department of trade and commerce or receiver shall have taken possession of any bank under the provisions of this article, the stockholders thereof may repair its credit, restore or substitute its reserves, and otherwise place it in condition; but such bank shall not be permitted to reopen its business until the department of trade and commerce, after careful investigation of its affairs, is of the opinion that its stockholders have complied with the law, that the bank's credit and funds are in all respects repaired, all advances, if any, made from the depositors' guarantee fund, with interest, fully paid, its reserve restored or sufficiently substituted, and that it should be permitted again to reopen for business; whereupon said department of trade and commerce is authorized to issue written permission for resumption of business under its charter. The directors shall have power and authority to levy and collect assessments on the stock for the purpose of repairing the credit of the bank and any deficiency

that may occur by reason of the impairment of the capital stock of said bank.

Sec. 52. (331) Time for filing claims against failed bank.

As soon as receiver has qualified, which shall be within ten days after his appointment, the court in which such proceedings are pending, or a judge thereof, shall make an order fixing the time for filing claims against the corporation whose property is under such receivership, which shall not be more than sixty days from the date of such order, and notice thereof shall be given forthwith, by posting a copy of such order on the front door of the bank and by publication thereof in some newspaper published in the county, to be designated by the court or judge making such order, for at least three consecutive weeks prior to the date thus fixed.

Sec. 53. (332) Claims—priority—payment.—The claims of depositors, for deposits, and claims of holders of exchange, shall have priority over all other claims, except federal, state, county and municipal taxes, and subject to such taxes, shall at the time of the closing of a bank be a first lien on all the assets of the banking corporation from which they are due and thus under receivership, including the liability of stockholders, and, upon proof thereof, they shall be paid immediately out of the available cash in the hands of the receiver. If the cash in the hands of the receiver, available for such purpose, be insufficient to pay the claims of depositors, the court in which the receivership is pending, or a judge thereof, shall determine the amount required to supply the deficiency and cause the same to be certified to the department of trade and commerce, which shall thereupon draw against the Depositors' Guarantee Fund in the amount required to supply such deficiency and shall forthwith transmit the same to the receiver, to be applied on the said claims of depositors. No part of the Depositors' Guarantee Fund shall be used to supply the deficiency that may accrue by the failure of any bank now transacting business, or which may be hereafter organized, which bank has not filed the report provided for in Section 15 of this article and received the certificate provided for in Section 14 of this article. Such drafts against the Depositors' Guarantee Fund shall be prorated, as nearly as may be, among the several solvent banks wherein the same is as aforesaid kept and maintained, in

accordance with the amounts thereof held by such banks respectively. No claims to priority shall be allowed which is based upon any evidence of indebtedness in the hands of or originally issued to any stockholder, officer or employee of such bank, which represents money obtained by such stockholder, officer or employee, from himself or some other person, firm, corporation or bank in lieu of or for the purpose of effecting a loan of funds to such failed bank.

Sec. 54. **Penalties for unlawful act.**—No corporation organized for the purpose of conducting a banking business under the laws of this state shall be granted the certificate provided in Section 14, or the charter provided in Section 16 of this article, until there shall have been filed with the department a statement, under oath, of the president or cashier of such bank that no premium, bonus, commission, compensation, reward, salary, or other form of remuneration has been paid, or promised to be paid to any person for selling the stock of such bank or for inducing in any manner any subscription for such stock. The president or cashier of any such bank who shall be found guilty of filing a false statement under the provisions of this section shall be fined in any sum not exceeding \$5,000.00 or be imprisoned not exceeding one year.

Whenever, after such certificate and charter shall have been delivered, it shall appear to the department, that such statement is false, they shall cancel such certificate and charter and a receiver shall be appointed for such corporation in the manner provided for in case of a corporation which is conducting a banking business in an unsafe or unauthorized manner.

Sec. 55. **(333) Reimbursement of guarantee fund.**—To the extent of the amount paid from said guarantee fund to satisfy the claims of creditors, the department of trade and commerce for the use and benefit of said fund, shall be subrogated to all the right of the creditors thus paid, to participate in the assets of such bank and the same shall be enforced and collected by the receiver accordingly and when collected shall be placed in said fund and deposited by the department of trade and commerce in the solvent banks subject to the provisions of the depositors' guarantee fund, proportionate to the several deposits to the assessments levied against each of said banks.

Sec. 56. **(335) Power of department and receiver.**—The department of trade and commerce or any receiver appointed under the provisions hereof, shall have authority to take possession of any bank to which the order of appointment shall relate, and retain the possession of such bank, its moneys, rights, credits and property of every description, as against any mesne or final process and until such time as all of the liabilities of such bank have been fully paid and discharged, and any attachment lien against such property, acquired within thirty days next preceding the taking of such possession shall be thereby released and dissolved. For each day the department of trade and commerce shall so hold possession, such bank shall pay to the state treasurer for account of the general fund, a fee of ten dollars, and for each day a receiver shall so hold possession, such bank shall pay such receiver as full compensation for his services a fee of not less than three dollars nor more than ten dollars as fixed by the department of trade and commerce and in each case, in addition to said amount, the necessary clerk hire and attorney's fees.

Sec. 57. **(336) Bank refusing to deliver possession—procedure.**—Whenever any bank refuses or neglects to deliver possession of its affairs, assets or property of whatever nature, to the department of trade and commerce or to the person ordered or appointed, to take charge of such bank according to the provisions of this article, the department of trade and commerce shall communicate the facts to the attorney general, or the county attorney of the county wherein such bank is located, who shall thereupon cause an application to be made to the district court or to any judge thereof having jurisdiction of the same, for an order placing such department of trade and commerce or the person ordered or appointed by it to take charge of such bank in charge thereof, and its affairs and property. If the judge of the district court having jurisdiction of the same, shall be absent therefrom at the time such application is to be made, then, and in that case, any judge of the supreme court may grant such order, but the petition and order of possession shall be forthwith transmitted to the clerk of the district court of the county in which such bank is located.

Sec. 58. **(337) Duties of receiver.**—Every receiver immediately upon taking possession, shall proceed to collect all debts,

assets and claims belonging to such bank, and, upon order of the district court, or judge thereof, may sell or compound all bad or doubtful debts, and on like order may sell all the real and personal property of such bank upon such terms as the court or judge thereof may direct; and may, if necessary, enforce the liabilities of stockholders, officers or directors. The terms bad or doubtful debts, as used in this section, shall not include the liability of stockholders, officers or directors. Whenever any such receiver shall have paid in full all of the liabilities of such bank, including any liability to the depositors' guarantee fund as herein provided, the funds and assets remaining in his hands, if any, shall be paid and delivered to the person or persons entitled thereto.

Sec. 59. **(338) Report by receiver.**—The receiver shall make to the department of trade and commerce not less than one report quarterly according to such form as may be prescribed and which report shall be verified by his oath.

Sec. 60. **(340) Rewards.**—The department of trade and commerce is hereby authorized and empowered to offer any pay out of the depositors' guarantee fund rewards for the apprehension and conviction of any person or persons violating the provisions of this article, such rewards not to exceed in any case five hundred dollars.

Sec. 61. **(341) Penalty.**—Where no other punishment is provided herein any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five, nor more than three hundred dollars or by imprisonment in the county jail for not less than thirty, nor more than ninety days, or both.

Sec. 62. **(342) Saving clause.**—Nothing in this article contained repealing any law for the regulation or conduct of banking, shall be construed to release any person from punishment for any acts heretofore committed violating said law or laws, nor affect in any manner any existing indictment or prosecution by reason of such repeal; and for that purpose such law or laws shall continue in full force and effect notwithstanding such repeal.

Sec. 63. **(343) National bank—how changed to state bank.**
—Any national banking association located and doing business within the State of Nebraska, authorized to dissolve, and which shall have taken the necessary steps to effect dissolution, may reorganize as a state bank under and according to the laws of this state. The department of trade and commerce may accept good assets of such national banking association worth not less than par in lieu of the payment otherwise provided by law for the stock of such reorganized bank.

Sec. 64. **(Ch. 175, Session Laws 1915) State banks may become members of Federal Reserve.**—Any bank incorporated under the laws of this state shall have power to subscribe to the capital stock, and become a member of a federal reserve bank created and organized under an act of Congress of the United States, approved December 23, 1913, and known as the federal reserve act, and shall have power to assume such liabilities and to exercise such powers as a member of such federal reserve bank as are prescribed by the provisions of said act, or amendments thereto; and, so long as such bank shall remain a member of the federal reserve system created by said act of congress, it shall be subject to examination by the legally constituted authorities, and to all provisions of said federal reserve act and regulations made pursuant thereto by the federal reserve board which are applicable to such banks as members of the federal reserve system; and the state authorities may, in their discretion, accept examinations and audits made under the provisions of the federal reserve act in lieu of examinations required of banks organized under the laws of this state. Any bank complying with the reserve requirements of the federal reserve act, and its amendments, shall be relieved from compliance with the provisions of the laws of this state relating to the maintenance of reserves.

Sec. 65. **(Ch. 175, Laws 1915) Same—Trust Companies.**—Any bank or trust company, incorporated under the laws of this state shall have power to subscribe to the capital stock, and become a member, of a federal reserve bank created and organized under an act of Congress of the United States, approved December 23, 1913, and known as the federal reserve act, and shall have power to assume such liabilities and to exercise such powers as a

member of such federal reserve bank as are prescribed by the provisions of said act, or amendments thereto; and so long as such bank shall remain a member of the federal reserve system created by said act of congress, it shall be subject to examination by the legally constituted authorities, and to all provisions of said federal reserve act and regulations made pursuant thereto by the federal reserve board which are applicable to such banks as members of the federal reserve system; and the state authorities may, in their discretion, accept examinations and audits made under the provisions of the federal reserve act in lieu of examinations required of banks organized under the laws of this state.

Sec. 66. (345) **Payment of joint deposits on death of one depositor.**—When a deposit in any bank in this state is made in the name of two or more persons, deliverable or payable to either or to their survivor or survivors, such deposit or any part thereof, or increase thereof, may be delivered or paid to either of said persons or to the survivor or survivors in due course of business.

ARTICLE XVII.

INSTALLMENT INVESTMENT COMPANIES.

Section 1. (346) **Designation—name.**—Every association, other than building and loan associations, savings banks, insurance companies or fraternal beneficiary associations organized under the laws of this state, or admitted under the laws of this state, to do business herein, which is or shall be organized for the purpose of raising money from its members or others, by means of stated installments or payments, to be held, invested or disbursed by said association, whether the money so contributed is paid in for shares in such association, or is held by the association for investment and accumulation for the benefit of its contributors, or as an advance on merchandise, or property of any kind, to be delivered in the future, or is held by the association to be disbursed among the contributors, or any of them, in accordance with any agreed plan or scheme, and whether the relation of the contributor to the association be that of member, shareholder, vendee, creditor or beneficiary of a trust; and every incorporated association, every unincorporated association, every corporation, whether organized under the laws of this or any

other state, territory or government and every individual doing business, or attempting or offering to do business in the state of Nebraska, in form or character similar to that hereinabove set forth, shall be known, for the purpose of this article as an installment investment company. Every such installment investment company that is a resident or a citizen of any other state, territory or government, or that is a co-partnership or unincorporated association, of which any member or members is a resident of any other state, territory or government, or is an incorporated association, organized under the laws of any other state, territory or government, shall be further known for the purpose of this article, as a foreign installment investment company.

Sec. 2. (347) Control by department.—The department of trade and commerce shall have power to issue certificates of approval to any such installment investment company and shall have general supervision over and control of any and all such companies.

Sec. 3. (348) Papers filed with department.—Before transacting any business whatever in this state, excepting that pertaining to its organization, every such installment investment company shall file in the office of the department of trade and commerce, the following documents, to-wit:

1. A written statement, showing in full detail the plan upon which it proposes to transact business.

2. A copy of the contract which it proposes to make with contributors.

3. A written statement which shall show the name and locality of the association, and an itemized account of its actual financial condition, and the amount of its property and liabilities, and such other information touching its affairs, as said department of trade and commerce may require. If such installment investment company shall be a co-partnership, or an unincorporated association, it shall also file with the department of trade and commerce a copy of its articles of co-partnership or association, and all other papers pertaining to its organization. If it be a corporation organized under the laws of Nebraska, it shall also file with the department of trade and commerce, a copy of its articles of incorporation, constitution, by-laws and all other papers pertaining to its organization, and if it be an incorporated

or unincorporated association, organized under the laws of any other state, territory or government, it shall also file with the department of trade and commerce a copy of the laws of the state, territory or government under which it exists or is incorporated, and also of its charter, articles of incorporation or association, constitution, by-laws and amendments thereof, and all other papers pertaining to its organization. All of the above described papers shall be verified by the oath of such installment investment company, if it be an individual, or by the oath of a member of the co-partnership if it be a co-partnership, or by the oath of a duly authorized officer, if it be an incorporated or unincorporated association. All such papers, however, as are recorded or are on file in any public office, shall be further certified to by the officer of whose records or archives they form a part, as being correct copies of such records or archives. Every foreign installment investment company shall also appoint an attorney in each county in which it proposes to transact or solicit business who shall be a resident of such county and shall file with the department of trade and commerce a written instrument duly signed, sealed and acknowledged, authorizing such attorney in such county to acknowledge service or process in behalf of such company consenting that service of process, mesne or final, upon such attorney shall be taken and held as if served upon the company, according to the laws of this or any other state, and waiving all claims or right of error by reason of such service, or such acknowledgement of service. Every foreign installment investment company shall file anew with the department of trade and commerce annually, in the month of January, and at such other times as the department of trade and commerce may deem it expedient to demand the same, all statements and documents required by this section to be filed with the department of trade and commerce by foreign installment investment companies, before transacting any business except that pertaining to organization.

Sec. 4. (349) Department examine application and paper.

—It shall be the duty of the department of trade and commerce to examine carefully the statements and documents so filed, and if it finds that such installment investment company is insolvent, that its articles of incorporation or association, its constitution

and by-laws, its proposed plan of business and proposed contract contain and provide for a fair, just and equitable plan for the transaction of business it shall issue to such installment investment company a certificate of approval; but if it finds that such articles or incorporation or association, charter, constitution, by-laws, plan of business or proposed contract contain any provision that is unfair, unjust, inequitable or oppressive to any class of contributors, it shall withhold its approval. All certificates of approval issued to foreign installment investment companies shall be limited to those counties for which said company has filed with the department of trade and commerce appointments of attorneys, as required by the next preceding section, and that all certificates issued to such foreign installment investment companies shall expire on the 31st day of January of the following year.

Sec. 5. (350) **Unlawful to do other business.**—It shall not be unlawful for any corporation, association, co-partnership or individual, either as principal or agent, to transact any business in form or character similar to that set forth in the fourth next preceding section, except such as pertains to its organization, until it shall have procured the certificate of approval above provided for, nor even then, in any county of this state not included in such certificate, nor after the expiration or revocation of such certificate. No amendment of the charter, articles of incorporation, constitution or by-laws of any such installment investment company shall become operative until a copy of the same has been filed with the department of trade and commerce, and a certificate of its approval obtained, as provided in regard to the original filing of charters, articles of incorporation, constitution and by-laws; nor shall it be lawful for any such installment investment company to transact business on any other plan than that set forth in the statement required by section 3 of this article or to make any contract other than that shown in the copy of the proposed contract required to be filed by the second preceding section, until a written statement, showing in full detail, the proposed new plan of transacting business and a copy of the proposed new contract shall have been filed with the department of trade and commerce and a certificate of approval of said department of trade and commerce obtained as to such proposed

new plan of transacting business, or proposed new contract, in like manner as above provided in regard to the original plan of business and proposed contract.

Sec. 6. **(351) Statements—annual, etc.**—Every such installment company shall, at the close of business on June 30th of each year and at such other times as required by the department of trade and commerce, file in the office of said department of trade and commerce, a statement verified by the oath of such installment investment company, if it be an individual or by the oath of a member of the co-partnership, if it be a co-partnership, or by the oath of a duly authorized officer, if it be an incorporated or unincorporated association, setting forth in such form as may be prescribed by the department of trade and commerce its financial condition and the amount of its assets and liabilities, and furnishing such other information as to its affairs, as said department of trade and commerce may require. Any installment investment company failing to file the report required at the close of business, June 30th of each year, within ten days of that date, or to file any other or special report herein required, within thirty days after the receipt of a request or requisition therefor, shall forfeit its right under the certificate of approval provided for in this article.

Sec. 7. **(352) Accounts—how kept.**—The general accounts of every such company shall be kept by double entry, and such company, its co-partners or managing officer shall, at least once each month, make a trial balance of such accounts, which shall be recorded in a book provided for that purpose; such trial balance and all other books and accounts of such company shall, at all times during the business hours, be open to inspection of contributors to the company.

Sec. 8. **(353) Examination of.**—The person or persons appointed under the law of this state to make examinations of corporations, firms or individuals doing a banking business, shall make an examination and report of every installment investment company doing business in this state, as often as the department of trade and commerce shall deem it necessary and proper, and at least once a year; and the rights, powers, duties, privileges and compensation of such person or persons, in connection with such examination, shall be the same as is or may be provided by law

with reference to examinations of banks; and such installment investment company shall pay the same fees for such examination as is or may be provided by law in case of the examination of banks. Whenever it is necessary for examiners to go into another state for the purpose of examining the affairs of any such installment investment company transacting business in this state a per diem fee of ten dollars and expenses of the examiner for the time required to be absent from the state capitol on such examination shall be paid to the examiner by such installment investment company so examined.

Sec. 9. (354) **Assets impaired—receiver.**—Whenever it shall appear to the department of trade and commerce that the assets of any installment investment company are impaired to the extent that such assets do not equal its liabilities, or that it is conducting its business in an unsafe or inequitable or unauthorized manner, or that it is jeopardizing the interest of its contributors, or that it is unsafe for such installment investment company to transact business, said department of trade and commerce shall revoke its certificate of approval and shall communicate such facts to the attorney general, who shall thereupon apply to the supreme court, or to the district court where such company is located, or to a judge of either of said courts, for the appointment of a receiver to take charge of and wind up the business of such installment investment company; and if such fact or facts be made to appear it shall be sufficient to authorize the appointment of a receiver, and the making of such orders and decrees in such cases as equity may require.

Sec. 10. (355) **False statement—penalty.**—Every person who shall wilfully or knowingly subscribe, or make or cause to be made any false statement or false entry in any book of any installment investment company, or exhibit any false paper with the intention of deceiving any person authorized to examine into the affairs of such installment investment company, or shall make, state or publish any false statement of the financial condition of such installment investment company shall be deemed guilty of a felony and, upon conviction thereof, shall be fined not exceeding ten thousand dollars, and be imprisoned in the state penitentiary not less than one nor more than five years.

Sec. 11. (356) **Agent doing business illegally—penalty.**—

Any person, agent, or company doing business or offering or attempting to do business in this state for any such installment investment company which shall not, at the time, be the holder of a valid, unrevoked and unexpired, certificate of approval as provided for in the seventh preceding section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding one thousand dollars or by imprisonment in the county jail not more than thirty days, or both.

ARTICLE XVIII.

TRUST COMPANIES.

Section 1. **(738) Trust companies—how formed.**—Any three or more persons may adopt articles of incorporation and become a body corporate for the purpose of engaging in and conducting the business of a trust company, upon complying with the requirements of this article and the general laws of this state relating to the organization of corporations.

Sec. 2. **(739) Same—filing—record.**—Said articles of incorporation shall be filed in the office of the secretary of state, and a certified copy thereof shall be filed and recorded in the office of the county clerk of the county in which said corporation shall have its principal office.

Sec. 3. **(740) Powers.**—The corporation shall have, in addition to the powers hereinafter named, the following powers.

1. To have a corporate name;
2. To have a corporate seal;
3. To sue and be sued and complain and defend in all courts of law and equity;
4. To receive proper compensation for all services performed by it under the provisions of this article;
5. To make by-laws not inconsistent with this article, or its articles of incorporation, for the management of its affairs;
6. To appoint or elect such officers and agents as the business of the corporation may require.

Sec. 4. **(741) Directors.**—The control of the business affairs of such corporation shall be vested in a board of directors

of not less than five in number, all of whom shall be elected by and from its stockholders.

Sec. 5. (742) **Capital.**—No corporation shall be authorized to transact business under this article unless it shall have a capital stock of at least two hundred thousand dollars in cities of one hundred thousand inhabitants or more; one hundred thousand dollars in cities of fifty thousand and less than one hundred thousand inhabitants, fifty thousand dollars in cities of more than ten thousand and less than fifty thousand inhabitants; and twenty-five thousand dollars in cities and villages having ten thousand inhabitants or less, all of which shall be fully paid up in cash before the corporation is authorized to commence business.

Sec. 6. (743) **Specific powers.**—Corporations created under the provisions of this article shall have power:

1. To receive trust funds for investment or in trust upon such terms and conditions as may be agreed upon, and to purchase, hold and lease fire and burglar proof and other vaults and safes from which a revenue may be derived,

2. To accept and execute all such trusts as may be committed to them by any corporation, person, or persons, and to act as assignee, receiver, trustee and depositor, and to accept and execute all such trusts as may be committed or referred to them by order, judgment or decree of any court of record;

3. To take, accept and hold by the order, judgment or decree of any such court, or by gift, grant, assignment, transfer, devise or bequest, any real or personal property in trust; to care for, manage and convey the same in accordance with such trusts; and to execute and perform any and all such trusts;

4. To act as agent or attorney-in-fact for any person or corporation public or private;

5. To act either by itself or jointly with any natural person or persons as administrator of the estate of any deceased person whose domicile was within the county in which the corporation is located or whose domicile is outside of the state of Nebraska, or as executor under the last will and testament, or as guardian, curator or conservator of the property of any infant, insane person, idiot, habitual drunkard or person under any other disability, or as trustee for any person or of the estate of any de-

ceased person under the appointment of any court of record having jurisdiction of the estate of such person;

6. To loan money upon real estate, not to exceed forty per cent. of the appraised value, and upon collateral security, when the collateral would of itself be a legal investment for the said corporation: and to borrow money and to execute and issue its notes payable at a future date, and to pledge its real estate, mortgages, or other securities therefor. No loan shall be made to any officer or director of said corporation.

7. To buy, hold and own and sell government, state, county, and municipal bonds, bonds issued under the Federal Farm Loan Act, stocks, warrants, bills of exchange, notes, mortgages, and other investment securities, negotiable and non-negotiable, except bonds the interest on which has been in default for a period of two years next preceding the date of purchase, stocks of any corporation that have not earned annual dividends of at least four per cent. per annum for at least three years just prior to the date of such purchase and stock of any corporation organized under this article;

8. To purchase, own or rent real estate needed in the conduct of the business and to erect thereon buildings deemed expedient and necessary, the cost of such real estate and buildings not to exceed forty per cent. of the paid-up capital stock; to purchase, own and improve such other real estate as it may be required to bid in under foreclosure or in payment of other debts; and

9. To perform all acts and exercise all powers connected with, belonging to or incident to, or necessary for the full and complete exercise and discharge of the rights, powers and responsibilities hereinbefore granted, and all provisions of this article shall be liberally construed. None of the powers hereby granted shall extend to or be construed to authorize any such corporation to conduct the business of banking, as defined in article XV.

Sec. 7. (744) **Appointment by a court.**—Courts of this State may appoint such corporation receiver, assignee, trustee, guardian, executor or administrator. When such corporation is so appointed and an oath is required to be made, whether in order

to qualify, or for any other purpose, the president, vice-president, secretary or trust officer, may on behalf of such corporation, make and subscribe the required oath.

Sec. 8. (745) **Conveyance—execution.**—All conveyance of, or other instruments affecting real estate owned or held in trust by the corporation shall, when authorized by a resolution of the board of directors, be signed in the name of said corporation by its president, or vice-president and under the seal of said corporation.

Sec. 9. (746) **Security—deposits.**—Any company organized to do business under this article shall, before it commences to transact business, make a deposit with the department of trade and commerce of cash or approved securities in the amounts following; corporations having a capital stock of \$200,000 or more, not less than \$40,000; corporations having \$100,000 but less than \$150,000 of capital stock, not less than \$25,000; corporations having \$50,000 but less than \$100,000 of capital stock not less than \$15,000 and corporations having \$25,000 capital stock not less than \$10,000.

Sec. 10. **Same—kind of securities—when excepted.**—Such securities shall consist of government, state, municipal, or other bonds, or bonds or notes secured by first mortgages, on improved real estate in the state of Nebraska, or other securities which constitute a legal investment for said corporation which may be approved by the department of trade and commerce. Such securities shall not be accepted for purposes of deposit at a rate above par and if their market value is less than par they shall not be accepted for such purpose above their actual market value.

Sec. 11. **Same—certificate of deposit.**—The required deposit having been made the department of trade and commerce shall issue a certificate showing that such corporation has complied with the provisions of this article. Having thus qualified such corporation may be permitted to act as guardian, curator, administrator, assignee, receiver, trustee, either by appointment of court or under will, or depository of money in court without bond. Upon presentation of the certificate that the corporation has complied with the provisions of this article and has made a deposit as herein provided, the court or other officer charged

with the duty of making such appointment or of approving bonds may, in his discretion, make the appointment and permit the corporation to qualify without bond or require such bond as is required from natural persons.

Sec. 12. **Same—fund—what liable for.**—The fund deposited as provided in section 9 shall be primarily liable for obligations of such company as guardian, curator, executor, administrator, assignee, receiver, trustee, either by appointment of court or under will, and for depository of money in court, and shall not be liable for any other debt or obligation of the corporation until all trust liabilities aforesaid have been discharged.

Sec. 13. **Same—interest.**—The corporation may collect and retain the interest of all securities deposited as provided in section 9 and the department of trade and commerce may deliver interest coupons before their maturity to the corporation.

Sec. 14. **Same—substitute securities—when required.**—If the interest on any security deposited as provided in section 9 shall remain unpaid for six months after maturity, the department of trade and commerce shall require the corporation to substitute other securities therefor.

Sec. 15. (747) **Examination.**—The department of trade and commerce or any person or persons duly authorized by it shall, once during each year, examine the books of the company and be entitled to charge and receive for such examination the sum of twenty-five dollars for any company having assets of one hundred thousand dollars or less, and five dollars additional for each additional one hundred thousand dollars of assets. If the department has reason to believe that the affairs of any corporation are not being conducted in compliance with this article, it may, at any time, make or cause to be made, a special examination of the assets of such corporation. The fees for a special examination shall be the same as those for a regular examination. It may, in its discretion, require any corporation to increase its deposits above the amount herein named, not exceeding an amount equal to one-tenth of the trust funds received by appointment of court or under will, that are not covered by bond; and may permit the withdrawal of such excess deposit when the said obligations have been reduced. The department may also permit the substitution of securities for those on deposit.

Sec. 16. (748) **Maximum liability.**—The maximum liability which may be incurred by any corporation organized under this article, exclusive of money or properties held in trust, shall not exceed two-thirds of the paid-up capital stock.

Sec. 17. (749) **Statement.**—Such corporation shall file with the department of trade and commerce during the month of July of each year, a statement under oath of the condition of such corporation on the 30th day of June next preceding in the manner and form required by the department.

Sec. 18. (750) **Reports—summary.**—The reports required by this article shall be verified by one of the managing officers, and a summary of such report, in a form prescribed by the department of trade and commerce shall, within thirty days after the filing of said statement with the said department, be published in a newspaper of general circulation in the place where the business of such corporation is transacted.

Sec. 19. (751) **Penalty for false oath to statement.**—Any person making oath to any of the statements herein required, knowing the same to be false, shall be deemed guilty of a felony and shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars, or be imprisoned in the penitentiary for a term of not less than one year nor more than five years, or both.

Sec. 20. (752) **Use of terms prohibited.**—No individual, firm, company or association in the state of Nebraska shall use the words "trust", "trust company" or "trust association" as any part of its title, except those complying with the provisions of this article. Any person, persons or corporation violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined one hundred dollars for each day's use of any of the said terms.

ARTICLE XIX.

BUILDING AND LOAN ASSOCIATIONS.

Section 1. **General control by department.**—The department of trade and commerce shall have power to issue permits to and shall have general supervision, and control of any and all building and loan associations as in this article defined.

Sec. 2. (485) **Name—powers—vote by proxy.**—Any association of not less than five persons, which shall be organized within this state for the purpose of raising money to be loaned among its members, shall be authorized and empowered to levy, assess, and collect from its members such sums of money, by rates of stated dues, fines, interest and premiums on loans, as the corporation may provide in its constitution or by-laws, and to exercise such other powers as are hereinafter conferred. Every such corporation may, however, receive payments from its members in any amount, which together with the balance, if any, formerly to the credit of the member thus paying, upon the books of the corporation, shall not exceed the par value of the shares of stock held by him. No person shall hold in his own right more than five thousand dollars of investment stock, and no person shall vote in his own right or as proxy more than five thousand dollars par value of stock.

In any association whose assets exceed \$200,000.00 and do not exceed \$500,000.00, borrowing members may hold stock to the amount of \$10,000.00; in any association whose assets exceed \$50,000.00 and do not exceed \$1,000,000.00, borrowing members may hold stock in the amount of \$20,000.00; in any association whose assets exceed \$1,000,000.00 and do not exceed \$5,000,000.00, borrowing members may hold stock to the amount of \$30,000.00, and in any association whose assets exceed \$5,000,000.00, borrowing members may hold stock to the amount of \$50,000.00. At any meeting of stockholders, where not less than fifty members are present, sufficient proxies may be had by those present to represent the majority of all the stock of the corporation. The words "Loan and Building Association", "Building Association", "Building and Loan Association", "Savings and Loan Association", or "Loan and Savings Association", shall form part of the corporate name of every such corporation. The capital stock of every such association shall consist of the accumulated payments made by its members and dividends credited thereon, and shall be represented by shares.

Sec. 3. (487) **Constitution and by-laws.**—Every such association shall adopt a constitution and by-laws.

Sec. 4. (488) **Withdrawals—stock pledged as security.**—Such constitution shall contain equitable provisions permitting

any shareholder to withdraw all or part of his or her stock payments, by giving written notice of such intention, to the secretary or managing officer of the association, and, at the expiration of thirty days following the period of the next regular payment, or at any time thereafter, the members so withdrawing, or, if deceased, his legal representative, shall be entitled to receive, on demand, the amount paid in by him or her, together with such rate of interest or proportion of the net profits as the by-laws may determine, less the admission fee, and all fines and other just and lawful charges. If there has been a net loss instead of a net gain, then such withdrawing shareholder shall receive the actual amount paid in, less his proportion of such net loss. At no time, however, shall more than one-half of the unloaned funds in the treasury of the association be applicable to the demands of the withdrawing shareholders without the consent of the board of directors.

No shareholder shall be entitled to withdraw where stock is pledged as security for a loan, either to the association or to any other creditor.

The directors may, in their discretion, under rules made by them in conformity with by-laws, retire any unpledged shares in the order of their issue, by enforcing withdrawals of the same, and the owners shall be paid the full value of their shares as determined at the last preceding distribution of profits, together with all dues paid since such distribution, less any unpaid fines. All shares which have reached matured value shall be first retired under the provisions of this article.

Sec. 5. (489) Advance payment of loan.—The constitution shall also contain equitable provisions permitting the payment of loans before maturity, as follows: The borrower shall be charged with the full amount of his loan, together with any and all arrearages due thereon, or on the shares pledged, or appertaining to the security given, and shall thereupon be allowed, as a credit, the withdrawal value of the shares pledged as security together with an equitable share of the premium, if any, paid in advance, and such other credits as may be returnable on account thereof, and the balance shall be received by the association in full settlement and discharge of such loan. The provisions

of this section shall not apply to loans made upon definite periods of repayment.

Sec. 6. (490) **Delinquents—cancellation.**—The constitution shall further provide that if any member has become delinquent in his payment on any shares pledged for the security of any loan from the association, to an amount equal to the payments due on said shares for any period named therein, (not, however, less than three nor more than twelve months) such shares may be cancelled, and he shall, as to such shares, cease to be a member of the association, and the withdrawal value, if any, of such shares at the date of cancellation, shall be credited on his loan. If, after the aforesaid credits, or other credits a balance remains due the association on account of said loan, it may recover the balance, either by the foreclosure and sale of the security given or by an action at law upon the evidence of indebtedness.

Sec. 7. (491) **Matured stock—certificates issued.**—Certificates of stock shall be issued to every member for the number of shares owned by him, in conformity with the article and constitution and by-laws. Whenever any such articles are made to the joint account of two or more persons, the account represented thereby shall be payable to the survivor. Every stockholder shall receive credit on the books of the association for all amounts paid by him upon his subscription for stock, together with his prorata share of all dividends declared, as hereinafter provided, and when the sum of such payments and dividends, less all fines or other charges, shall equal the par value of the shares of stock held by him, he shall be entitled to receive such par value, with such interest not exceeding the legal rate, as the directors may determine, from the time of maturity until paid. Holders of stock thus matured and members desiring to withdraw before such maturity, shall be paid the value of their stock in the order of the maturity of, or notice of withdrawal, of such stock. At no time, however, shall more than two-thirds of the unloaned funds in the treasury of the association, inclusive of such funds applicable to the demands of withdrawing stockholders, as hereinbefore provided, be applicable to the demands of holders of matured stock without the consent of the board of directors.

Sec. 8. (492) **Minors holding stock—trustee.**—Shares of

stock in any such association may be subscribed for, held, transferred, surrendered, withdrawn, and forfeited, and payments thereon received and receipted for, by any minor over the age of fourteen years, in the same manner and with the same binding effect as though such person were of full age, except that the said minor, or his estate, shall not be bound on his subscription to stock except to the extent of payments actually made thereon. A trustee or guardian may acquire, hold, transfer and withdraw and receive all moneys due upon shares in such association for the use and account of any minor; but before he shall be permitted to withdraw, transfer, or receive payment upon any shares so held, such trustee or guardian shall file with the county judge of the county where such association is located a bond for twice the value of the shares withdrawn, transferred, or money received, which bond shall be approved by said judge and shall be conditioned upon his faithfully accounting for the proceeds of the shares withdrawn, transferred, or money received, and the use thereof, and paying the same to said minor at his or her majority.

Sec. 9. (Ch. 10, 1917) **Authorized investments.**—No loan shall be made by such association except to its own members, nor shall any loan be made to any member for any sum in excess of the par value of his stock. The borrower shall pledge to the association as security for the loan, shares of a maturity value equal to the principal of the loan, and ample real estate security unincumbered except by prior liens held by such associations. Loans made upon improved real estate shall not exceed two-thirds of the actual cash value thereof, and all loans made on any other real estate shall not exceed two-fifths of the actual cash value thereof. The stock of such association may be accepted as security for a loan of the amount of the withdrawal value of such stock without other security. Any association may temporarily invest its idle funds, or any part thereof, not exceeding ten per cent of its assets, in bonds or interest bearing obligations of the United States, of the bonds issued under the Federal Farm Loan Act, of the State of Nebraska, or of any county, township, school district or other political division of the state of Nebraska, or of any incorporated city or village in the state of Nebraska, and may deposit its funds or any part thereof in any national or state

bank and receive therefor certificates of deposit or the usual bank pass-book credit subject to check.

No evidence of indebtedness taken by said association for the return of any loan shall be negotiable in form, and whatever be its form, every such evidence of indebtedness shall be non-negotiable in law, and no such debt, or evidence of debt shall be assignable or transferable in any manner so as to prevent the discharge thereof by payments to the association, except that bonds and interest-bearing obligations in which temporary investments may be made as hereinbefore provided, may be converted into cash in due court.

Sec. 10. (494) Buy, sell or lease real estate.—Such associations may purchase, hold, lease and convey real estate for the following purposes and no others:

1. Such as it may need to occupy as a place of business:
2. Such as shall, in good faith, be conveyed to it in satisfaction of debts contracted in the ordinary course of business.
3. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase in good faith, to secure debts due to it. No such association shall hold the title and possession of any real estate longer than five years, except for the first purpose above named. Nothing in this section shall be construed to forbid the mortgaging of real estate to such association.

Sec. 11. (495) Reserve fund—how increased—reduced.—Every association organized under the laws of this state for the purposes set forth in section 2 of this article, except such associations as are conducted upon the serial plan and in which the various series are operated wholly separate and distinct from each other, shall provide a reserve fund for the payment of contingent losses, by setting aside at least five per cent of the net earnings for each year to such fund until it reaches at least five per cent of the total assets of the association exclusive of cash on hand. All losses shall be paid out of such fund until the same is exhausted, and whenever the amount in said fund falls below five per cent. of the assets as aforesaid, it shall be replenished by annual appropriations of at least five per cent. of the net earnings, as hereinbefore provided, until it again reaches said

amount. If, in the opinion of a majority of the board of directors of any such association, said reserve fund be insufficient, at any time, to cover the probable losses among the assets, they shall have power to increase said fund from the net earnings to an amount not greater than the sum of such probable losses or in excess of ten per cent. of the assets of the association, exclusive of cash on hand. Such special increase of the reserve fund shall first be approved by the department of trade and commerce, and if, in the opinion of the department after an examination, as hereinafter provided, such special increase of the reserve fund is deemed necessary or advisable for the protection of stockholders, the department may order such reserve fund increased in like manner and within the same limits as aforesaid. Such reserve fund may at any time, with the consent of the department of trade and commerce, be reduced to not less than five per cent. of the assets aforesaid.

Sec. 12. (496) **Dividends—how and when paid.**—Every association of the character defined in section 11 of this article shall be required, at least annually, to transfer the residue of earnings (after paying expenses and setting aside a sum for the reserve fund as herein provided) as a dividend to members pro rata in proportion to their credit, to be paid to them as the association may provide.

Sec. 13. (497) **Books and accounts.**—All moneys received by the association from members shall be receipted for by persons, designated by the board of directors, in pass book provided by the association for the use of and to be held by the member. The general account of every such association shall be kept by double entry, and the secretary or managing officers shall, at least once each month, make and declare a trial balance of such accounts, which shall be recorded in a book provided for that purpose and it shall be open to the inspection of directors and stockholders of the association.

Sec. 14. (498) **Property of—subject to taxation.**—Such association shall not be subject to taxation on their capital stock, nor on their loans, advances or mortgages, but shares in such association shall, for the purpose of taxation, be considered and held as credits, and members and holders of such shares shall list the same for taxation, and the same shall be taxed in such man-

ner and subject to such deductions as may be provided by law for the taxation of other credits. The real estate of such association shall be subject to taxation in the same manner as provided by law in the case of other corporations and individuals.

Sec. 15. (499) **Usury—fees—dues—fines—interest.**—The fees, dues, interest, premiums and other payments of money made, contracted for, or required to be made, by any member of such association, by virtue of or in conformity with the provisions of its constitution and by-laws, though the same may aggregate a greater amount, taking into account all the terms and conditions of payments to and from such member, than is, or may be allowed by the laws of this state to be taken or collected as interest on ordinary contracts for the payment of money, shall not make any such payment, or contract therefor, usurious, but all such contracts may be enforced, and such fees, dues, fines, interests, premiums, and payments collected in the same manner as other debts on contracts not usurious. The certificate of approval provided for in section 18 of this article, issued to such association, shall be conclusive evidence of such compliance with the requirements of this article as to entitle it to the benefits of this section; but no association not holding such certificate, shall be exempt from the operation of the usuary law of this state.

Sec. 16. (500) **Department approve article of incorporation.**—A copy of the articles of incorporation, constitution and by-laws of every such association shall be filed in the office of the department of trade and commerce which shall examine the same carefully, and if it find that said articles of incorporation, constitution and by-laws conform to the requirements of this article and contain a just and equitable plan for the management of the association's business, it shall issue to such association a certificate of its approval of such articles of incorporation, constitution and by-laws; but if it shall find the provisions of such articles of incorporation, constitution and by-laws to be unjust or inequitable or oppressive to any class of share holders, it shall withhold its approval.

No such association shall transact any business, except the execution of its articles of incorporation, the adoption of a constitution and by-laws, and the election of directors and officers, until it shall have procured the certificate of approval above pro-

vided for; nor shall any amendment of the articles of incorporation, constitution or by-laws of any such association become operative until a copy of the same shall have been filed and a certificate of approval obtained as above provided in regard to original articles of incorporation, constitution and by-laws.

Sec. 17. **(501) Statements and special reports.**—Every such association shall, at the close of business on June 30th of each year, and at such other times as required by the department of trade and commerce, file in the office of said department within thirty days after the receipt of a request for a requisition therefor, a statement verified by the oath of its president or secretary and approved by three of its directors in such form as may be prescribed by said department setting forth its actual financial condition and the amount of its assets and liabilities and furnishing such other information as to its affairs as the said department may require, and a copy of such annual statement shall be published in a newspaper of general circulation in the county where such association is located three consecutive times and due proof of such publication, by affidavit, shall be filed with said department. Said department of trade and commerce shall have power to call for special reports from any such association whenever, in its judgment the same may be necessary or advisable, but no other or further notice or statement of the amount of the existing debts of such corporation shall be required to be published than that on June 30th, as aforesaid, provided for at the time of the annual statement to said department. Any association failing to comply with the provisions of this section shall forfeit its charter rights.

Sec. 18. **(502) Penalty for false statements.**—Every person who shall wilfully or knowingly subscribe, or make, or cause to be made, any false statement or any false entries in any book of any association organized for the purpose set forth in section two of this article or exhibit any false paper with the intent to deceive any person authorized to examine into the affairs of such association, or shall make, state, or publish any false statement of the financial condition of such association, shall be deemed guilty of a felony, and upon conviction thereof shall be fined not exceeding ten thousand dollars, and be imprisoned in the state penitentiary not less than one, nor more than five years.

Sec. 19. **(503) Examination—fees for.**—The department of trade and commerce shall make an examination and report of every association organized under the laws of this state for the purpose named in section two of this article, as often as shall be deemed necessary and proper and at least once a year; and the rights, powers, duties, privileges and compensation of the department of trade and commerce in connection with such examinations shall be the same as is or may be provided by law with reference to examinations of banks, and such associations shall pay the same fees for such examinations as are or may be provided by law in case of the examinations of banks.

Sec. 20. **(504) Insolvency—liquidation.**—Whenever it shall appear to the department of trade and commerce, that the assets of any association or corporation, organized under the laws of this state for the purpose set forth in section two of this article, are impaired to the extent that such assets do not equal the liabilities, or that it is conducting its business in an unsafe or unauthorized manner or is jeopardizing the interests of its members or that it is unsafe for such association to transact business, said department shall take possession of the books, records, and assets of every description of such association, and such department of trade and commerce shall have full power and authority to take, hold and retain possession of all the books, records, money, rights, credits, assets and property of every description belonging to such association, as against any mesne or final process issued by any court against such association or corporation whose property has been taken possession of by such department, pending the further proceedings specified in this article. If, such possession shall be refused, by the secretary, managing officer or person in charge of such association, the said department shall communicate such fact to the attorney general together with a copy of such order of possession, whereupon it shall become the duty of said attorney general to apply to the supreme court or to the district or county courts of the county where such association is located or to a judge of either of said courts, for a writ of assistance in placing said department in immediate possession of such association; and it shall be sufficient to authorize the issuance of said writ and taking possession of such association

thereunder, if it be made to appear that possession was refused as aforesaid.

Sec. 21. (505) **Special meetings of share holders.**—The department of trade and commerce shall, within ten days next after acquiring possession of such association, convene a special meeting of the shareholders. Notice of such special meeting shall be given by publication in a newspaper of general circulation in the county where such association is located and by written or printed notice posted in a conspicuous place in the office or place of business of the association. At such meeting said department shall present a full report of the affairs and condition of such association as found by its examination thereof.

Sec. 22. (506) **Department report condition.**—Said department, or any person authorized by it, shall, after having taken possession of the association as aforesaid, and pending the further proceedings specified in this article, prepare, or have prepared, a full and true exhibit of the affairs, property and condition of such association, including an itemized statement of all its assets and liabilities; and shall receive and collect all debts, dues and claims belonging to it, and pay the immediate and reasonable expense of its trust; and shall receive and receipt for all monthly payments becoming due after the date of coming into possession of the association, and shall keep the same separate and apart from the other moneys and effects of such association.

Sec. 23. (507) **Department direct reorganization.**—If, at the special meeting of the shareholders they shall vote to reorganize such association, the department, upon the consummation of the reorganization thereof, and the approval of the department shall turn over to the new management all the books, papers and effects of every description in its hands belonging to such association.

Sec. 24. (508) **Department direct liquidation.**—If, at the special meeting of the shareholders they shall vote to go into voluntary liquidation, or to otherwise close up or discontinue the business of such association, the department shall return to the shareholders all monthly payments and other payments on subscriptions for stock received and receipted for by it, and which became due and payable after the date of taking possession; and

all books, papers and effects of every description in its hands, belonging to such association not so returnable, shall be turned over and delivered to the person or persons entitled thereto.

Sec. 25. (509) **Receiver—when and how appointed.**—If the department of trade and commerce, after having called a meeting of the shareholders as herein provided, shall find that the association cannot be reorganized or that voluntary liquidation by the shareholders cannot be had or consummated, they shall communicate such facts together with a statement of the condition of the association to the attorney general, who shall thereupon apply for the appointment of a receiver to take charge of and wind up the business of such association. The department of trade and commerce may, at any time, after demand for possession has been made, communicate such facts and conditions to the attorney general, who shall thereupon apply for the appointment of a receiver in like manner and form as hereinbefore described.

Sec. 26. (510) **Rules and regulations made by department.**—The department of trade and commerce shall have power to make such rules and regulations for the government of all associations of the character defined in this article as may, in their judgment, seem wise and expedient.

Sec. 27. (511) **Unlawful use of name.**—No corporation hereafter organized or incorporated under the laws of this state shall use the words “Loan and Building Association,” “Building Association,” “Building and Loan Association,” “Savings and Loan Association,” or “Loan and Savings Association” as part of its corporate name, unless it shall have complied substantially with the requirements of this article. Any corporation violating the provisions of this section shall be fined in a sum not exceeding twenty-five dollars for each and every day it shall continue such violation.

Sec. 28. (513) **Foreign association—how designated.**—Every corporation, company, or association contemplating doing business in this state and having for a part of its title or name the words; “Loan and Building Association,” “Building and Loan Association,” “Savings and Loan Association,” “Loan and Savings Association,” “Cooperative Bank,” or “Investment Com-

pany," and every corporation, company, or association whose stock is payable by an accumulating fund in regular or stated periodical installments or at the will of the holder, and every corporation, company, or association doing business in a form and character similar to that authorized to be done by section two of this article shall, if organized in any country, state or territory other than the state of Nebraska, be known in this article as a foreign building and loan association.

Sec. 29. (514) **Foreign—file certificate.**—No foreign building association, directly or indirectly, shall transact any business in this state without first procuring a certificate of approval and authorization from the department of trade and commerce. Before obtaining such certificate such foreign building and loan association shall furnish said department with a statement sworn to by the president or secretary of the association, which statement shall show the name and locality of the association, an itemized account of its actual financial condition, and the amount of its property and liabilities, the amount and number of shares subscribed, the amount which has been paid in on such shares, the number of shares redeemed, the estimated cash value of each share of its stock, and all such other information touching its affairs as said department may require. Such foreign building and loan association shall also file with the department a certified copy of the laws of the state, territory, or government under which it is incorporated, and of its charter or articles of incorporation, and of its constitution and by-laws and all amendments thereto, and shall appoint an attorney in each county in which it transacts or solicits business, who shall be a resident of such county and shall file with the department a written instrument, duly signed and sealed, authorizing such attorney of such association to acknowledge service of process in behalf of such association, consenting that service of process mesne or final, upon such attorney shall be taken and held as if served upon the association according to the laws of this or any other state, and waiving all claims or rights of error by reason of such acknowledgment of service. If, after examination of such statements and certified copies of instruments, and after said association shall have complied with the requirements of this article as to the appointment of an attorney or attorneys, the department of trade

and commerce shall be satisfied that such association is solvent, and that the capital and investments are secure, and that the laws, charters, articles of incorporation, constitution and by-laws governing it afford an ample protection to interests of its members of associations hereafter incorporated under the laws of the state of Nebraska for the purpose mentioned in section two of this article, then the department may grant such association a certificate of approval authorizing it to transact business until the 31st day of January of the ensuing year, in those counties of this state in which it shall have appointed a resident attorney as above provided.

Sec. 30. **(515) Annual statement renewed.**—The statements required of foreign building and loan associations shall be renewed annually in January in such manner as required by this article and shall be made at such other times as the department of trade and commerce may deem it expedient to demand the same, and the department may at any time revoke the certificate of approval and authorization of any such association for cause.

Sec. 31. **(516) Penalty for violation.**—Any person, agent or company doing business or attempting to do business, in this state for any foreign building association which shall not at the time be the holder of a valid certificate of approval and authorization, as provided for in this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding one thousand dollars, or imprisoned in the county jail not more than thirty days, or both.

ARTICLE XX.

BLUE SKY LAW.

Section 1. **Definition of term.**—The term “securities” as used in this article shall be taken to mean stock certificates, shares, bonds, debentures, certificates of participation, or other instruments in the nature thereof, by whatsoever name known or called, or undivided interests in the capital, property, assets, profits or business of any corporation, partnership joint stock company, declaration of trust association or other association, or individual.

The term "stock" shall mean and include all shares or undivided interests in the capital, property, assets, profits or business of any corporation, partnership, joint stock company, or other association or individual, whether evidenced by written or printed certificates or not.

The term "person" shall include every corporation, partnership, joint stock company, declaration of trust association, and every other character of association, and every individual, whether such corporation, partnership, joint stock company or association is foreign or domestic and whether such individual is a resident or non-resident of this state.

Sec. 2. Securities exempt.—The provisions of this article shall not apply to the disposal of securities; (a) To a licensee under this article; nor shall they apply to (b) Bonds of a municipality, government or governmental agency; (c) Bonds or notes secured by first mortgage liens upon real estate; (d) Stock and securities issued by national banks; (e) Stocks and securities issues by state banks, insurance companies, building and loan associations and trust companies, when such corporations are legally authorized to do business in this state; (f) Stocks and securities issued by authority of the Nebraska State Railway Commission; (g) Stocks and securities of domestic corporations or associations organized not for profit, but solely for religious, educational or charitable purposes; (h) Stocks and securities acquired by the owner in the usual course of business, owned and held in good faith, and sold in the usual course of business when the expenses of sale shall not directly or indirectly, exceed two per cent of the sale price.

Sec. 3. Permits required.—Every person, before selling or negotiating for the sale of any securities not specially exempted from the provisions of this article, shall apply to the department for a permit in the manner hereinafter set forth.

Sec. 4. Application for permit and accompanying exhibits.—No person either as principal or through brokers or agents, shall sell or offer for sale or, by means of any advertisement circular or prospectus, or by any other form of public offering, attempt to promote the sale of any securities in this state, unless there shall first have been filed with the department (1) A veri-

fied written application setting forth the name of the applicant, the names and addresses of all stockholders and subscribers for stock, the amount of stock held or subscribed for by each, a statement of the assets and liabilities of the applicant, the total amount of such securities, and of all securities prior in time and superior in interest or lien, the nature of the business transacted or to be transacted, the amounts and kinds of stock desired to be issued and such other information as the department may require; (2) A copy of the securities to be offered; (3) If such securities are secured by mortgage or other lien, a copy of such mortgage or of the instrument creating such lien, and a competent appraisal or valuation of the property covered thereby, with a specific statement of all prior liens thereon, if any; (4) A full statement relative to the character or value of such securities or of the property or earning power of the company making or issuing or guaranteeing the same; (5) A copy of any advertising matter which is to be used in connection with such promotion, and no advertising matter shall be used unless a correct copy of the same shall have been filed as herein provided; (6) The names and addresses of any and all agents by or through whom such securities are to be sold, and no agent shall be employed unless such information shall have been filed, and unless there shall have been paid into the state treasury a registration fee of one dollar (\$1.00) for each such agent, which fee shall be payment in full of all fees for registration of such agent until and including the first day of March next following; (7) A statement showing in detail the plan on which the business or enterprise is to be conducted; (8) A true copy of the articles or agreement of incorporation or co-partnership, together with a copy of the charter and by-laws, if the securities be issued by a corporation.

Sec. 5. License fees.—The application shall be accompanied by a receipt from the state treasurer for ten (\$10.00) dollars for co-operative companies and all other organizations coming within the provisions of this article having a capital not exceeding twenty-five thousand (\$25,000.00) dollars, and a receipt for twenty-five (\$25.00) dollars in all other cases.

Sec. 6. Forms prescribed by department.—The department shall prescribe the forms of applications and the forms of all

other blanks and documents to be used in connection with the administration hereof.

Sec. 7. Examination by department—expense.—The department shall make a careful examination concerning the application and such other matters as it may deem necessary. The expenses of such examination shall be borne by the applicant who shall make a sufficient deposit to cover such expenses.

Sec. 8. Public hearings.—When demanded a public hearing shall be had upon the application as soon as may be after the examination by the department at which hearing witnesses may be heard on behalf of the applicant, the department, or any person desiring to resist the application.

Sec. 9. Power of department to subpoena.—The department shall have authority to issue subpoenas to bring witnesses from any part of the state, and such witnesses shall receive the same fees and mileage as witnesses in the district court. Any person who shall fail to obey a subpoena so issued, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined in the sum of one hundred (\$100.00) dollars.

Sec. 10. Permit—when issued.—If the department find that the applicant has complied with all the requirements of law, and that there is no fraud in the proposed plan of organization or of doing business, or in the proposed sale of securities, the department shall issue to the applicant a permit to sell stock and securities for one year, in such amount as the department may determine. No stock shall be sold at less than par value or above par, except with the permission of the department, and all stock must be paid for either in money, in property, or in services at their actual market value. No watered or bonus stock or security shall be issued. All common and preferred stock shall have equal voting power.

Sec. 11. Bond—when required.—The department, as a condition precedent to the issuance of any permit herein provided for, may require all officers, agents and persons handling moneys of the applicant to be sufficiently bonded.

Sec. 12. Permit—when required.—If the department shall find that the applicant is insolvent or has not complied with all the requirements of law, or that there is fraud in the proposed

plan of doing business or in the sale of securities, or that the applicant has not sufficient net assets on which to base an issue of stock or securities, such application shall be denied.

Sec. 13. **Appeals.**—An appeal may be taken, by any person interested, from any order of the department to the district court of Lancaster County, Nebraska, as appeals are taken from boards of county commissioners.

Sec. 14. **Changes in articles of incorporation—notice to department.**—No business shall be transacted or attempted to be transacted after any change in the articles of incorporation or association, without notice to and the approval of the department.

Sec. 15. **Appointment of agents.**—When a permit shall have been granted to any applicant, such applicant may appoint agents to sell its stock or securities by making application to the department accompanied by a receipt from the state treasurer for one (\$1.00) dollar and a showing that such agent is a proper person.

Sec. 16. **Expenses of marketing stock—how paid.**—The department may authorize the use and expenditure of a reasonable percentage of the par value of stock or securities for the purpose of marketing the same but in no event shall the department allow to exceed 15% of the par value of such stock or securities for such purpose. In addition thereto the department may allow not to exceed 2½% of the par value of such stock and securities to be used for the purpose of paying the expenses of organization and promotion.

Sec. 17. **Non-resident sellers of stock—power of attorney.**—Prior to issuing or selling any stocks or securities the applicant, if a non-resident of the state, and under the supervision of this article, shall file with the department an irrevocable power of attorney making the secretary of the department the attorney in fact of the applicant and all process issued in this state against the applicant in any section instituted in the county where the cause of action arose, may be served upon said attorney with same force and effect as if such applicant were a domestic company having its principal office in such county.

Sec. 18. **Account filed.**—Every person within the purview of this article shall, while selling securities under the permit

therein provided for, on or before March 1st, of each year, file with the department a balance sheet and an income and property account for the year ending the thirty-first day of December preceding, and shall, at any time, upon request of the department, file such a showing and submit to an examination of the records and affairs by the department.

Sec. 19. Powers of department—revocation of permits.—Except as otherwise specifically provided herein the department shall have general supervision, regulation and control over the issuance of stocks and securities as defined in this article and shall have authority to revoke any permit granted, after notice and hearing for the infraction of any provision of this article, or any order of the department or for fraud or deceit in the sale of securities.

Sec. 20. Unlawful to declare unearned dividends.—No applicant receiving a permit under this article shall declare a dividend in any amount whatsoever, unless such dividend has been earned.

Sec. 21. Power of department to institute and prosecute civil actions.—In administering this article, the department is authorized and empowered to institute and prosecute in its name all civil actions, both legal and equitable, including mandamus and quo warranto.

Sec. 22. Employment of assistants.—The department is authorized to employ such assistants as may be necessary to properly administer this article. It shall also fix their compensation.

Sec. 23. Violation—penalty.—Any person within the purview hereof, failing to file any statement required, shall be deemed guilty of a misdemeanor and shall be fined not more than one hundred (\$100.00) dollars for each day in default. Any person refusing to submit to the examination herein provided shall be deemed guilty of a misdemeanor, and shall be fined not less than one hundred (\$100.00) dollars. Any person selling or negotiating the sale of any stock or securities, not herein exempt, without a permit from the department as herein provided, shall be deemed guilty of a misdemeanor and shall be fined not less than one hundred (\$100.00) dollars nor more than one thousand (\$1000.00)

dollars and the sale or negotiating for sale of such share of stock and each security shall constitute a separate offense.

Sec. 24. Conversion of funds to unauthorized purpose—penalty.—If any person as provided by this article, shall after procuring a license to sell the stocks and securities as provided herein, sell the same in accordance with the license procured and shall thereafter convert the funds procured from such sale to a different purpose or in a different manner than that which was represented to the department and upon which the license of the department was issued, such person shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one (1) year nor more than ten (10) years.

ARTICLE XXI.

FIRE INSPECTION AND PREVENTION.

Section 1. (R. S. 2502) Investigation of fires.—The department of trade and commerce, the chief of the fire department of every city or village in which a fire department is established, and the mayor of every city and the chairman of the board of trustees of every village in which no fire department exists, shall investigate the cause, origin and circumstances of every fire occurring in such city or village, and the sheriff may be required by the department to investigate the cause, origin and circumstances of every fire occurring in his county without the limits of any organized city or village therein, by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within two days, not including Sundays, after the occurrence of such fire, and the department of trade and commerce shall have the right to supervise and direct such investigation whenever it deems it expedient or necessary. The officer making investigation of fires occurring in cities, villages, or counties shall forthwith notify the department of trade and commerce, and shall within one week of the occurrence of the fire, furnish to the department a written statement of all the facts relating to the cause and origin of the fire, and such other information as may be called for by the blanks provided

by the department. Such record shall, at all times be open for public inspection.

Sec. 2. (R. S. 2503) Testimony taken and proved by department.—The department of trade and commerce shall, when in its opinion further investigation is necessary take or cause to be taken testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter as to which an examination is herein required to be made, and shall cause the same to be reduced to writing; and if the department shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, it shall cause such person to be arrested and charged with such offense, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all the information obtained by it, including a copy of all pertinent and material testimony taken in the case. No action taken by the department shall affect the rights of any policy-holder in respect to his loss by reason of any fire so investigated, nor shall the result of any such investigation, or the fact that an investigation was requested or made, be given in evidence upon the trial of any civil action upon such policy.

Sec. 3. (2506) Dangerous buildings and premises a nuisance—abatement of.—Any building, or other structure, which for want of proper repair, or by reason of age and dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property; and any combustible or explosive material, or inflammable conditions placed, kept, or existing in or upon any building or premises, which is dangerous to the safety of such buildings or premises, or when the same is so situated as to endanger other buildings or property, is hereby deemed and declared to be a nuisance; and any owner or occupant of such building or premises who shall cause, continue or maintain any such nuisance shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined in any sum not exceeding the sum of five hundred dollars and the court shall order such nuisance to be abated.

Sec. 4. (2507) Order of abatement of destruction of premises.—The department upon complaint of any person having an interest in any building or property adjacent, and without

any complaint, shall have the right through its agents at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within its jurisdiction. Whenever the department shall find that any building or other structure, or any material place, kept or maintained in or upon any buildings or premises, constitutes a nuisance within the meaning of the next preceding section, he shall order the same to be abated, and such order shall be forthwith complied with by the owner or occupant of such building or premises. The department may, for and on behalf of the state of Nebraska, institute an action in the district court of the county in which any building found by it to be a nuisance is situated, to have same declared to be a nuisance and order abated by the court. In such case the owner of said building if his name and residence are known, shall be personally served with notice of the pendency of said action. Where the name of the owner of said building is known, but his place of residence is unknown and cannot with reasonable diligence be ascertained, if it shall appear to the satisfaction of the court by the affidavit of the department or of the county attorney of the county in which said building is situated, that the affiant does not know the address or residence of the defendant has not been able to ascertain same after reasonable and due inquiry, the court, or the judge thereof in vacation, shall authorize notice by publication of the pendency of said action, said notice to be given in the same manner as is provided in other cases under the code of civil procedure. It shall be sufficient where the name of the owner is unknown and cannot be found with reasonable diligence, to make the property upon which the building declared to be a nuisance is situated, the party defendant. In such case notice by publication of the pendency of said action shall be sufficient unless the building is occupied in which case the occupant, if a resident of the state and county in which the building is situated shall be given personal notice of the pendency of said action. The same time shall be given for the filing of an answer in said case as is given for the filing of an answer in an ordinary civil action.

If upon the trial of said cause the court shall find that the building or other structure constitutes a nuisance within the meaning of the next preceding section, he shall so find, and order

said nuisance to be abated; and in such case the department shall have a lien upon said building or the materials of which it was composed for the reasonable fees and expenses in connection with said abatement, including the costs incurred in said action of abatement.

If there be immediate and pressing necessity for the abatement of the nuisance and the owner of the building found to be a nuisance by the department is not a resident of the county where said building was found, or is absent therefrom, the department may immediately abate such nuisance by tearing down or removing said structure or building, doing no more damage to the material therein contained than is necessary and shall have a lien on the said building or the materials of which it was composed, for its reasonable charges and expenses in connection with said department. Nothing herein contained shall be construed to limit or restrict in any way the prosecution of the owner or occupant of such building under the provisions of the criminal code providing for the punishment and abatement of nuisance.

Sec. 5. Failure to comply with order—penalty.—Any person who shall fail to comply with the order issued by the department of trade and commerce to abate a nuisance as in this article defined, shall be guilty of a misdemeanor and upon conviction, shall be fined in any sum not exceeding one hundred (\$100.00) dollars. Each Day's maintenance of a nuisance ordered abated shall constitute a separate offense.

Sec. 6. (2510) Tax on insurance companies.—For the purpose of paying the expenses of carrying out the provisions of this article, every fire insurance company except farmers' mutuals, whether upon the stock or mutual plan, doing business in the state of Nebraska, shall pay to the state treasurer in the month of January, annually, in addition to the taxes now required by laws to be paid by such companies, three-eighths of one per cent on the gross fire premium receipts, after deducting cancellations and re-insurance, of such companies on all business done in Nebraska the year next preceding, as shown by their annual statements, which sum shall be paid on or before the first day of January of each year, and no certificate shall be issued by the department to any such company, authorizing it to do or con-

tinue business in this state while any such percentage or tax remains due and unpaid.

Sec. 7. (2514) Fees for reporting fires to department.—The chiefs of fire departments, the mayors of cities and chairmen of the board of trustees of villages, who do not receive compensation for their services as such chiefs, mayors or chairmen and sheriffs who are by this article required to report fires to the department of trade and commerce, shall be paid the sum of one dollar and fifty cents for each fire so reported to the satisfaction of the department, and, in addition thereto, mileage at the rate of ten cents per mile for each mile actually and necessarily traveled to the place of any fire. Such payment shall be made at the close of each fiscal year, out of any funds appropriated for the use of the office of the department of trade and commerce.

Sec. 8. (Ch. 73, R. S. 1915) Fire escapes—chutes—or toboggans.—Every building now or hereafter used, in whole or in part as a public building, public or private institution, office or store building, theatre, public hall, place of assemblage or place of public resort, more than two stories high and containing above ground floor, offices, assembling hall, work rooms or a room intended to be used as a place of amusement, all or any of which rooms are designed for occupancy by fifteen or more persons, shall be provided with one or more fire proof stairways, chutes, or toboggans constructed on the outside thereof, placed in such position and as many in number as may be designated by the department of trade and commerce.

All school houses and buildings used for school purposes of two or more stories in height shall be equipped as provided in the preceding sentence of this article.

Such fire-proof stairways, chutes or toboggans shall connect the cornice with the top of the first story of such building by a wrought iron or steel platform, properly surrounded with a wrought iron or steel railing. Platforms shall be constructed on a level with the floor of each story and of sufficient length to permit access to the same from not less than two windows of each story. Said platforms shall be so constructed as to be of convenient access from the interior of the building, commodious in size and form and of sufficient strength to be safe for the purpose

of ascent and descent. All buildings more than two stories in height used for manufacturing purposes, mercantile establishments, schools, hospitals or other institutions, where twenty-five or more persons congregate at any one time, shall be provided with one automatic metallic fire escape for every twenty-five persons, for which accommodations are provided above the second floor, the material, design and location of which shall be subject to the approval of the department. All theatres, including moving picture theatres and other places of amusement, school houses and buildings used for school purposes shall have proper exits, opening outward, which shall not be less than three feet wide by six feet six inches high. All operating booths for apparatus involving the use of a combustible film more than ten inches in length shall be constructed of galvanized iron or other metal, lined with asbestos and otherwise constructed according to the regulations of the department. The department of trade and commerce or any person deputized by it shall have authority to inspect all such theatres or other places of amusement and prescribe regulations for the construction and operation of the same.

Sec. 9. **(R. S. 3124) Stand-pipes in rooming houses and hotels.**—In every existing hotel, rooming house, apartment house, or restaurant, and in any hereafter erected, four stories or more in height, and containing fifty or more sleeping rooms, there shall be at least two inside standpipes under water pressure, with sufficient hose attached at all times. Such standpipes shall be not less than two inches in diameter on four story buildings and increase one inch in diameter for each two stories' additional height, or shall conform in size to water service of the city or village in which the same is located.

Sec. 10. **(R. S. 3125) Same.**—Every existing hotel building, rooming house or apartment house, exceeding fifty-five feet and not over one hundred feet in height, unless already provided with a three-inch or larger standpipe, on the outside, and all buildings hereafter erected exceeding fifty-five and not exceeding one hundred feet in height, shall be provided with a vertical standpipe of not less than four inches in diameter. For every existing hotel, rooming house, or apartment house building exceeding one hundred feet in height, unless already provided with a four-inch or larger standpipe, and for all buildings hereafter

erected exceeding one hundred feet in height, there shall be provided a vertical standpipe not less than six inches in diameter. Such standpipes shall be of wrought iron or steel and, together with fittings and connections, shall be of such strength as to safely withstand at least three hundred pounds of water pressure to the square inch, when installed and ready for service. Such standpipes shall have one hose valve on the roof and a hose valve at each floor opening with double siamese automatic valves at the bottom, about one foot above the curb level and adjusted looking down at an angle of forty-five degrees. All valve openings shall be of brass protected by a substantial brass cap, and all fittings and threads shall be of the size and form to fit regulation fire department hose. Such standpipes shall, where possible, be attached to the fire escape with iron ladder, for use of firemen, running the full height of the building and over the roof, and all hose connections shall be toward the building. This section shall not apply in cities or villages, not equipped with water works and fire fighting equipment suitable for using vertical standpipe.

Sec. 11. **(R. S. 3126) Fire escapes—hotels and rooming house.**—Every hotel, rooming house, apartment house or restaurant in this state, occupied by twenty persons or more, which has fifteen or more sleeping rooms above the second floor, shall be equipped with an iron stairway, fire escape or fire escapes on the outside of the building, connected to the cornice of the building, with openings from each floor, which shall be well fastened and secured, with landing not less than six feet in length and three feet in width, guarded by iron railings not less than thirty inches in height. Such landings shall be connected by an iron stairway not less than two feet wide with steps of not less than six inches tread, the stairway to be placed at an angle of not more than forty-five degrees. The way of egress to such fire escapes shall, at all times, be kept free and clear of all obstructions. At every opening to every fire escape a red light shall be kept burning at night. Fire escapes shall be placed where the department of trade and commerce may direct. In case there are more than fifteen sleeping rooms on each floor, above the second floor, there shall be provided one such fire escape for each additional fifteen sleeping rooms on each floor. There shall be posted and maintained in conspicuous places on each hall and

each guest room, except in the hall and rooms on the ground floor of such hotel, plainly written notices reading, "Fire escapes are indicated by red lights." Every hotel, rooming house and apartment house less than four stories high and having less than fifteen sleeping rooms on the third floor, shall have hallways placarded to indicate all stairways and exits, and shall keep in each outside room, a five-eighth inch knotted rope of sufficient length to reach the ground, to be fastened six feet above the floor near a window in a substantial manner and capable of sustaining at least five hundred pounds weight; or, in lieu of such knotted rope, any automatic fire escape, approved by the department of trade and commerce.

Sec. 12. Halls and exits required on upper stories of three-story hotels and rooming houses.—Any building three stories or more in height, constructed as or converted into a hotel, rooming house or apartment house, shall be constructed with one main hall on each floor above the ground floor, with exits through the outside wall or walls. Outside fire escapes, ropes or automatic appliances shall not be required in hotels having interior fire proof stairways approved, as such, by the department of trade and commerce.

Sec. 13. (R. S. 3128) Fire extinguishers.—Every hotel, rooming house, apartment house or restaurant, three stories high shall be provided with one fire extinguisher of a style and size approved by the department of trade and commerce on each floor containing twenty-five hundred square feet or less of floor area, and one additional fire extinguisher on each floor for each twenty-five hundred feet or less of additional floor area. Such extinguisher or extinguishers shall be placed in convenient locations in a public hallway outside of the sleeping rooms at or near the head of the stairs, and shall always be in a condition for use.

Sec. 14. Violation—penalty.—Any one violating any of the provisions of this article for which no other specific penalty is provided shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in the sum of five dollars for each offense and each day's noncompliance shall constitute a separate offense.

TITLE VI.

DEPARTMENT OF PUBLIC WELFARE

ARTICLE I.

GENERAL POWERS.

Section 1. **Scope.**—The department of public welfare shall have general supervision and control over matters relating to public health, sanitation and the general public welfare; and shall provide for examination as in this title provided; and enforce the provisions of this title; and have supervision over all matters of quarantine and quarantine regulations. ?

Sec. 2. **Medical affairs.**—The department of public welfare shall have the right at all times to inspect the equipment and methods of teaching in all medical colleges and medical schools of the state, and shall have the power to refuse examination to the graduates of any school which, on proper notice and hearing, shall be adjudged not a medical college or medical school in good standing as defined by the laws of this state.

ARTICLE II.

SUPERVISORY POWERS OVER HEALTH.

DIVISION I.

PHYSICIANS AND SURGEONS.

Section 1. (2717) **Who may practice medicine.**—No person shall practice medicine, surgery or obstetrics or any of the branches thereof, in this state, without first having applied for and obtained from the department of public welfare a license so to do. Application therefor shall be in writing, and shall be accompanied by the examination fees hereinafter specified and with proof that the applicant is of good moral character. Applications from candidates who desire to practice medicine and surgery in any or all their branches shall be accompanied by proof that the applicant is a graduate of a medical school or

college in good standing. When the application aforesaid has been inspected by the department of public welfare and found to comply with the foregoing provisions, the department shall notify the applicant to appear before it for examination at the time and place mentioned in such notice. The examination shall be of a character sufficiently strict to test the qualifications of the candidate as a practitioner. The examination of those who desire to practice medicine and surgery in any or all their branches shall embrace those subjects and topics, knowledge of which is commonly and generally required of candidates for the degree of doctor of medicine, by reputable medical colleges in the United States. All examinations provided for in this article shall be conducted under rules and regulations prescribed by the department which shall provide for a fair and wholly impartial method of examination, by a board of three examiners to be chosen by the department, who shall be graduated physicians of seven years consecutive practice, and for such services they shall receive \$15.00 per diem, and actual expenses incurred in the discharge of their duties, provided that examinations on practice of medicine and therapeutics shall be conducted by the member, or members, of such board who are of the same school of medicine as that of the applicant; and it is further provided, that the said department may at its discretion admit, without examination, legally qualified medical practitioners, who hold certificates to practice medicine in any state with requirements equal to those of the state of Nebraska.

Sec. 2. (2718) Requirements for practice of medicine.—The term medical college or school in good standing, for the purpose of this article, shall be defined as follows: (1) A legally chartered medical school or college requiring for admission at least a diploma from an accredited high school of this or some other state, or a certificate from the state superintendent of public instruction showing that the applicant has successfully passed an examination covering the branches of study embraced in an accredited high school course, which requirements shall be regularly published in all the advertisements and in each prospectus or catalogue issued by such medical college or school; (2) that said medical college or school in good standing shall show evidence of modern methods in all its branches of instruction and demon-

stration; (3) that its equipment and facilities for medical instruction shall be modern and shall be kept up to date by the purchase from time to time and use of such equipment as the department shall prescribe; (4) that said medical college or school in good standing shall keep and maintain a library consisting of up to date text books and periodicals dealing with medical subjects and questions; (5) that each such medical college or school in good standing shall have access to, own or control, a hospital, and shall conduct a dispensary for poor patients, in both of which the students of said medical college or school shall be required to regularly participate in the treatment of cases; (6) that said medical college or school in good standard shall have a faculty of at least four who devote their entire time to the teaching of medicine and its associated branches in said school and the remainder of the faculty shall be composed of representative members of the medical profession; (7) that such medical college or school shall also require as a requisite for granting the degree of M. D., attendance upon at least four courses of lectures of eight months each, no two of such courses to be held within one year and having a full faculty of capable professors in all the different branches of medical education, to-wit: anatomy, physiology, chemistry, toxicology, pathology, hygiene, materia medica, therapeutics, obstetrics, bacteriology, medical jurisprudence, gynecology, principles and practice of medicine and surgery, and specially requiring clinical instruction in the last two named of not less than four hours per week in each week during the last two courses of lectures.

Sec. 3. (2719) Issuance and filing of certificate.—If upon investigation of the proofs submitted to the department, and after the examination, as hereinbefore provided, the applicant shall be found entitled to practice, there shall be issued to said applicant the certificate of said department under its seal stating such fact, and it shall be the duty of the applicant, before practicing, to file such certificate or a copy thereof in the office of the county clerk of the county in which he or she resides, or in which he or she intends to practice; such certificate or copy shall be filed by the county clerk and by him recorded in a book kept for that purpose, properly indexed, to be called the "Physicians Register" and for such services the county clerk shall receive

from the applicant the same fees as are allowed to the register of deeds for the recording of conveyances.

Sec. 4. (2720) Removal of physician to another county.—Any person who shall have obtained a certificate provided by this article and shall remove to another county shall, before the entering upon the practice of his profession in such other county, cause said certificate to be filed and recorded in the office of the county clerk of the county to which he has removed.

Sec. 5. (2721) Unprofessional conduct.—The department of public welfare may refuse to issue a certificate, or may revoke one already issued for any of the causes defined in this section, to-wit: The employment of fraud or deception in applying for license or diploma or in passing the examination provided for in this article; conviction of crime involving mortal turpitude; habitual intemperance in the use of ardent spirits, narcotics or stimulants, unprofessional or dishonorable conduct. The words “unprofessional” or “dishonorable conduct,” as used herein, are declared to mean:

First: The procuring or aiding or abetting in procuring a criminal abortion;

Second: The obtaining of a fee on the assurance that a manifestly incurable disease can be permanently cured;

Third: Betrayal of a professional secret to the detriment of a patient;

Fourth: Causing the publication and circulation of advertisements of any medicine or means whereby the monthly periods of women can be regulated or the menses can be established, if suppressed;

Fifth: Causing the publication and circulation of advertisements of any kind relative to diseases of the sexual organs tending to injure the morals of the public.

Sec. 6. (2722) Actions to recover for medical services.—No person shall recover in any court in this state any sum of money whatever for any medical, surgical or obstetrical services, unless he shall have complied with the provisions of this article, and is one of the persons herein authorized to be registered as a physician.

Sec. 7. (2723) **Practicing without a license.**—Any person not possessing the qualifications for the practice of medicine, surgery, or obstetrics, required by the provisions of this article who shall engage in the practice of medicine, surgery, or obstetrics, or any of the branches thereof, in this state, shall be deemed guilty of a misdemeanor, and on conviction thereof shall, for each offense, be fined in any sum not less than fifty dollars, nor more than three hundred dollars.

Sec. 8. (2724) **"Practice" defined.**—Any person shall be regarded as practicing medicine, within the meaning of this article who shall operate on, profess to heal or prescribe for, or otherwise treat any physical or mental ailment of another. Nothing in this article shall be construed to prohibit gratuitous services in case of emergency, and this article shall not apply to commissioned surgeons in the United States army and navy nor to nurses in their legitimate occupations, nor to the administration of ordinary household remedies.

Sec. 9. (2725) **Doctors dividing fees.**—No physician or surgeon shall divide fees with, or promise to pay a part of his fee to, or pay a commission to any other physician or surgeon or person who calls him in consultation or sends patients to him for treatment or operation. Any physician or surgeon who pays or receives any money prohibited by this section shall be punished by a fine of not more than one hundred dollars and be liable in a civil action to the patient for the full amount received.

Sec. 10. (2726) **Itinerant vendors of drugs, etc.**—Any itinerant vendor of any drug, nostrum, ointment, or appliance of any kind intended for the treatment of any disease or injury, or who shall by writing, printing, or any other method, publicly profess to cure or treat disease or injury, or deformity, by any drug, nostrum, manipulation, or other expedient, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty dollars nor more than one hundred dollars, or be imprisoned in the county jail for a period of not less than thirty days nor more than three months, or both.

Sec. 11. (2727) **Examination of candidates.**—Every holder of a diploma from a recognized medical college within the State of Nebraska, making application for an examination and a certificate under the provisions of this article, shall pay to the de-

partment prior to his examination the sum of ten dollars. All other persons making such application shall pay to the department of public welfare the sum of twenty-five dollars. All such fees shall be equally divided among the members of the board making such examination as full compensation for their services and expenses. For the taking of any testimony each of the members of the board of examiners shall be entitled to charge and receive such fees as are provided for notaries public for similar services. No part of such fees shall be paid out of the state treasury.

DIVISION 2.

OSTEOPATHY AND OSTEOPATHIC PHYSICIANS.

Section 1. **License required—application—examination—special permits.**—No person shall practice osteopathy and surgery, or any or the branches thereof, in this state without having applied for and obtained from the department of public welfare a license so to do. Application therefor shall be in writing, and shall be accompanied by the examination fees hereinafter specified, and with proof that the applicant is of good moral character. Applications from candidates who desire to practice osteopathy and surgery shall be accompanied by proof that the applicant is a graduate of a school or college of osteopathy in good standing. When the application aforesaid has been inspected by the department of public welfare and found to comply with the foregoing provisions the department shall notify the applicant to appear before it for examination at the time and place mentioned in such notice. The examination shall be of a character sufficiently strict to test the qualifications of the candidate as a practitioner. The examination of those who desire to practice osteopathy and surgery shall embrace all topics and knowledge which is commonly and generally required of a candidate for a degree for Doctor or Diplomat of Osteopathy by reputable schools in good standing as hereinafter defined. All examinations provided for in this article shall be conducted under the rules and regulations prescribed by the department which shall provide for a fair and wholly impartial method of examination by a board of three examiners to be chosen by the department, who shall be regularly licensed osteopathic physicians actually en-

gaged in the practice of Osteopathy in the state of Nebraska, who have been so engaged at least five years immediately prior to their appointment. Examinations may be dispensed with in the discretion of said department in case of an Osteopathic physician duly authorized to practice osteopathy in any other state or the District of Columbia, if such state or district is maintaining a standard of qualifications equal to the standard maintained in this state, who presents a certificate or license issued by such state or district accompanied by a fee of twenty-five (\$25.00) dollars.

A special permit may be granted by the department of public welfare to an applicant deemed by it to be eligible but such special permit shall not operate beyond the date of the next regular or special examination held for the examination of applicants.

Sec. 2. Revocation of license.—The department of public welfare may revoke a certificate for unprofessional conduct of the licensee.

Sec. 3. Investigation and issuance of certificate—rights conferred.—If upon investigation of the proof submitted to the department and after examination, where examination is required, as hereinbefore provided, the applicant shall be found entitled to practice, there shall be given to said applicant the certificate of said department under its seal, stating such fact, and it shall be the duty of the applicant, before practicing, to file such certificate or a copy thereof in the office of the county clerk of the county in which he or she intends to practice. Such certificate or copy shall be filed by the county clerk and by him recorded in the book kept for that purpose to be called the "Physicians Register" and for such service the county clerk shall receive from the applicant the same fees as allowed to the register of deeds for the recording of conveyances. Said certificates shall confer upon the holder thereof the right to practice osteopathy in all its branches, but it shall not authorize the holder thereof to prescribe or use drugs in the treatment of diseases except where the use thereof was taught in the school or college of osteopathy of which the applicant is a graduate, at the time of his attendance at such school, and then only in those cases and in the manner in which the applicant has been taught to use the same. Nothing in this act shall be construed so as to authorize

the administration, by an osteopath, of drugs excepting anesthetics, antidotes for poisons and narcotics for temporary relief of suffering. Osteopathic physicians shall perform only such operations in surgery as was fully taught in the school or college of which the applicant is a graduate at the time of his attendance.

Sec. 4. **Examination fees.**—Every applicant making application for an examination and a certificate under the provisions of this article shall pay to the department the sum of \$25.00. All such fees shall be equally divided among the examiners appointed under this act and making such examinations as full compensation for their services.

Sec. 5. **Duty to report vital statistics, etc.**—Osteopathic physicians shall observe and be subject to all state and municipal regulations relative to reporting all births and deaths and all matters pertaining to the public health, the same as physicians of schools of medicine, and such reports shall be accepted by the officers of the department to which the same are made.

Sec. 6. **Unlawful practice—penalty.**—Any person who shall falsely represent himself to be a qualified osteopath or shall practice or attempt to practice osteopathy or use the science or system of osteopathy in treating the diseases of the human body without having first complied with the provisions of this article and obtained a license to so practice, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, or be confined in the county jail not less than three months nor more than six months. Any person, who, for the purpose of deceiving, shall use any form of letters representing the word "osteopath" shall be deemed guilty of a misdemeanor, and upon conviction be fined in any sum not less than twenty-five dollars nor more than one hundred dollars or be confined in the county jail not less than three months nor more than six months.

Sec. 7. **College of osteopathy defined.**—The term school or college of osteopathy in good standing shall be defined as follows: A legally chartered osteopathic school or college requiring for admission to its course of study a preliminary education equal to the requirements for graduation of an accredited high school, and shall further require before granting the degree of

diplomat or doctor of osteopathy, and (an) actual attendance at such osteopathic school or college of at least thirty-two months or four terms of eight months each, its course of study to include the subjects and the minimum hours taught in each thereof as follows: Anatomy, five hundred forty hours; Chemistry, three hundred hours; Pathology, two hundred fifty hours; Toxicology, fifty hours; Pediatrics, one hundred hours; General Surgery, four hundred fifty hours; Obstetrics, two hundred hours; Histology, one hundred eighty hours; Physiology, three hundred hours; Hygiene and Dietetics, thirty-six hours; Practice, Therapeutics, General Diagnosis, and Technique, one thousand fifty hours; Dermatology and Syphilis, forty-five hours; Orthopedic Surgery, forty-five hours; Gynecology, one hundred twenty-five hours; Embryology, seventy hours; Bacteriology, one hundred fifty hours; Comparative Therapeutics, seventy-five hours; Nervous and Mental diseases, one hundred fifty hours; Jurisprudence, Ethics and Economics, forty-five hours; Genito-Urinary diseases, forty-five hours; Eye, Ear, Nose and Throat, one hundred twenty hours. The number of hours herein prescribed for the study of any subject may be reduced not more than twenty per cent, but the total number of hours prescribed shall not be reduced. The foregoing requirements shall be published in each catalogue of such osteopathic school or college.

Sec. 8. Partial examinations—fees, etc.—Any candidate for license or certificate to practice osteopathy in this state may be permitted to submit himself for examination in those studies and subjects completed at the end of the second year of college training, and if such examination is satisfactory and discloses that the applicant has mastered the subjects covered by such examination he shall be given credit therefor on his final examination. The applicant, before taking such partial examination, shall pay to the department the sum of fifteen dollars, which shall be equally divided among the members of the board making such examination as full compensation for their services. The applicant upon final examination shall pay to the department an additional sum of fifteen dollars which shall be turned over to the board and divided among them as in the case of the other fees.

DIVISION 3.

CHIROPRACTIC.

Section 1. **License required.**—No person shall practice chiropractic in this state without having applied for and obtained from the department of public welfare a license so to do.

Sec. 2. **License—examination.**—Any person not licensed in this state, before engaging in the practice of chiropractic in this state, shall make application for a certificate to practice accompanied by a fee of twenty-five dollars (\$25.00). Said application must be upon forms furnished by the department and include: First, The name and residence of the applicant. Second: The date of applicant's diploma and evidence that such diploma was granted on personal attendance and completion of a course of not less than three terms of nine months each, said course to be preceded by an educational training equivalent to that of a regular four years high school course. Third: The name of the school or college of chiropractic of which said applicant is a graduate, which said school must be a chartered institution in good repute at the time of granting such diploma. If the facts thus set forth shall meet the requirements prescribed by the rules of the department, the applicant shall be entitled to take the examination before a board of three examiners to be chosen by the department, who shall be regularly licensed chiropractics in the state and who have been actively engaged in the practice of chiropractic at least five years immediately prior to their appointment. The examination shall include the subjects of anatomy, physiology, chiropractic, symptomatology, nerve tracing, chiropractic orthopedy, hygiene, principles of chiropractic, and adjusting, as taught by chiropractic schools and colleges. All applicants who shall correctly answer seventy-five per centum (75%) of all questions asked, and not fail to answer correctly sixty per centum (60%) of the questions on any branch of said examination, shall be entitled to a certificate finding that he or she is entitled to receive from the department a license to practice chiropractic in the state of Nebraska. The applicant, before practicing, shall file the same or a copy thereof in the office of the county clerk in the county in which he or she resides or intends to practice. The county clerk shall record the same in a book to be called

“Physicians Register” and receive the same fees for recording as for recording conveyances. Any person failing to pass such examination may be re-examined at the next regular examination within one year from the time of such failure, without additional fee. The department may in its discretion, dispense with the examination in case, first, of a chiropractor duly authorized to practice chiropractic in any other state or territory or the District of Columbia who presents a certificate or license issued after an examination by the legally constituted board of such state, territory or District of Columbia, accorded only to applicants of equal grade with those required in this state; or second, a chiropractor who has been in the actual practice of chiropractic for five years, who is a graduate of a reputable school of chiropractic of equal grade with those of Nebraska, who may desire to change his residence to this state and who makes application on a form to be prescribed by the department, accompanied by a fee of twenty-five dollars (\$25.00). A special permit may be granted by the department to an applicant deemed by it eligible, but such special permit shall not operate beyond the date of the succeeding regular or special meeting of the examiners. In all of the above provisions the fee shall be the same as charged to applicants for examination.

Any person shall be regarded as practicing chiropractic within the meaning of this article who shall adjust by hand any articulation of the spine. Nothing in this article shall be construed to prevent any legally qualified physician from performing any operation or manipulation found necessary in the practice of his profession. Any chiropractor who has complied with the provisions of this article and obtained a license may adjust by hand any articulation of the spine, but shall not prescribe for or administer to any person any medicine or drugs now or hereafter included in materia medica, perform any minor surgery only as hereinbefore stated, nor practice obstetrics, nor practice osteopathy.

Chiropractic practitioners shall observe and be subject to all state and municipal laws and regulations relating to the control of contagious and infectious diseases, sign death certificates, and any and all matters pertaining to public health, reporting to proper health officers the same as other practitioners.

A certificate may be refused to any person convicted of felony or gross unprofessional conduct, or to one addicted to any vice to such a degree as to render him unfit to practice chiropractic, and for like reasons the certificate and license shall be revoked upon due notice and hearing.

Sec. 3. **Examination—fees.**—Every applicant making application for an examination and a certificate under the provisions of this article shall pay to the department the sum of twenty-five (\$25.00) dollars, all such fees to be equally divided among the members of the board making such examinations as full compensation for their services.

Sec. 4. **Removal license fee.**—All persons practicing chiropractic within the state shall pay, on or before the first day of September of each year, after a license is issued to them as herein provided, to the department of public welfare a renewal license fee of two (\$2.00) dollars, and thereupon the department of public welfare shall issue a renewal of his certificate of registration.

Sec. 5. **Unlawful practice—penalty.**—Any person who shall falsely represent himself to be a qualified chiropractor, or shall practice or attempt to practice chiropractic, or any person who shall buy, sell, or fraudulently obtain any diplomas or license to practice chiropractic, whether recorded or not, or who shall use the title chiropractor, D. C., Ph. C., or any word or title to induce belief that he is engaged in the practice of chiropractic without first complying with the provisions of this article, or any person who shall violate any of the provisions of this article, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed one hundred (\$100.00) dollars, or by imprisonment in the county jail for a period not to exceed three months, at the discretion of the court.

DIVISION IV.

DENTISTS AND DENTAL SURGERY.

Sec. 1. **Unlawful to practice without license.**—It shall be unlawful for any person to engage in the practice of Dentistry in the State of Nebraska, unless such person shall have obtained a license from the department of public welfare, countersigned by

the State Board of Dental Examiners duly appointed under the provisions of this Article.

Sec. 2. Board of dental examiners—appointment—duties.—

It shall be the duty of the department of public welfare to see that the provisions of this Act are strictly enforced, to grant the certificates as hereinafter provided, and to cause to be prosecuted all violations thereof. The department of public welfare shall appoint five members to serve for a term of five years, of whom one shall be appointed each year in the month of July from a list of five dentists submitted by the Nebraska State Dental Society at its last annual meeting, said appointments to be made as terms of the present incumbents expire. Such members shall have been actively and legally engaged in the practice of Dentistry in the State of Nebraska for at least five years preceding the date of their appointment, and none of such appointees shall be members of the faculty of any dental college or dental department of any medical college, nor shall have any financial interest in any such college or department. Said members shall hold office for a term of five years, or until their successors are duly appointed or qualified. In case vacancy occurs in the office of the Board of Dental Examiners the department of public welfare shall fill such vacancy by appointment, within thirty days after it occurs, the appointee to serve the unexpired term of the member whose place becomes vacant.

Sec. 3. Registration.—There shall be an annual registration of every person or persons having a license to practice dentistry within the State, and it shall be the duty of the department of public welfare, not later than the first day of December of each year to prepare and mail to every person having a license to practice dentistry within the State, a document to be known as the "Annual Registration Blank," upon which shall be a proper space for the endorsement of the name, residence and location of office of the person to whom the same is sent; and it shall be the duty of every person upon the receipt of said blank to fill in the name, residence and location of office of said person; and said blank shall be fully completed and returned to the said department of public welfare within thirty days after its receipt, together with the sum of One Dollar as an annual registration fee, which is hereby required to be paid; for the failure to comply

herewith, the person shall, upon conviction, be liable to a fine of not less than Ten Dollars nor more than Fifty Dollars, to be collected by the State and paid into the County treasury, and the license of such persons to practice dentistry may be revoked for failure to register and pay the registration fee as herein provided.

Sec. 4. Board of dental examiners—organization—meeting—specific duties.—The Board of Dental Examiners shall have the power and it shall be their duty to assist and advise the State Department of public welfare in the performance of its duties, as prescribed by this Article. To that end they shall organize by the election of one of their number a President, another as Vice-President, another as Secretary and Treasurer. They shall meet in regular session during the months of June and November, at such times and places as they may designate, and may meet at such other times and places in special session as they may deem advisable, or, upon the call of the President of said Dental Examiners, or at the notification of the Secretary of Public Welfare, a written notice of the time, place and object of any special meeting shall be mailed by the Secretary of said Dental Examiners to all members of the Board of Dental Examiners not parties to the call, at least fifteen days before the day of meeting. It shall further be their duty at their regular sessions to examine all applicants for permanent license to practice dentistry according to the provisions of this article, and thereupon make recommendations to the department of public welfare; to collect and apply all fees as directed by the provisions of this article; to keep a book showing the names of all persons to whom licenses have been granted by the department of public welfare to practice dentistry, and such other books as may be necessary to plainly show the acts and proceedings of said department of public welfare and of said Board of Dental Examiners.

Sec. 5. Same—compensation.—Out of the funds coming into the hands of the said Board of Dental Examiners, as hereinafter provided, each member of said Board of Dental Examiners may receive, as compensation, Ten Dollars for each day actually spent in attending meetings in the discharge of the duties of his office, and the actual expense of each member of said Board of Dental

Examiners in traveling to and from the place of meeting and while attending such meeting of said Board of Dental Examiners.

Sec. 6. **Books of board open for inspection.**—All the books of the State Board of Dental Examiners shall be public records, open to the public inspection, at all times, and a certified copy thereof, or any part thereof, shall be receivable as evidence in any court in this state. The original shall be kept in the office of the person appointed as secretary of said State Board of Dental Examiners, wherever he may reside, and he shall furnish a certified copy thereof, or any part thereof, to any person making application therefor; PROVIDED: he may require the applicant to pay twenty-five cents for each one hundred words, or major fraction thereof, so copied, such fee to belong to said secretary as his compensation for such work.

Sec. 7. **Removal of board members for neglect of duties.**—The department of public welfare of the State of Nebraska shall have the power to remove from office at any time any member of the Board of Dental Examiners for continued neglect of duty, incompetency, or unprofessional or dishonorable conduct.

Sec. 8. **Examinations.**—The State Board of Dental Examiners shall examine, at their regular sessions only, all applications for permanent license who shall furnish satisfactory evidence of having complied with the provisions of the fifth next following section, relating to the qualification for examination, and shall recommend the granting of a license to all persons satisfactorily passing such examination, and upon such recommendation of the State Board of Dental Examiners, the department of public welfare shall grant a license to practice dentistry in the state of Nebraska under the signature of the Secretary of said department and countersigned by said State Board of Dental Examiners. The examination of applicants shall be elementary and practical in character, but sufficiently thorough to test the fitness of the candidate to practice dentistry. It shall be written in English and shall include questions on the following subjects: Anatomy, physiology, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, oral surgery, operative and prothetic dentistry, hygiene and dental jurisprudence, and such other subjects as are usually found in the curriculum of a dental college.

Demonstrations of the applicant's skill in operative and pros-

thetic dentistry shall also be required. In no case shall any applicant be examined or be given a certificate who is not at least twenty-one years of age. It shall be the duty of said State Board of Dental Examiners to give final examinations to all students who may so desire, who have completed two years in a recognized dental college, on the subjects completed in said years, or said State Board of Dental Examiners may at their discretion accept the final examination papers in those subjects completed in the Freshman and Sophomore years in lieu of the said final examinations. PROVIDED: that no dentist who shall have been regularly engaged in the practice of dentistry in this state prior to January 1, 1905, shall be required to take an examination.

Sec. 9. **Same—practical work.**—It shall be the duty of the State Board of Dental Examiners to cause at least two of their number to be present at the infirmary of each of the dental colleges, schools or departments, legally conducted in the State of Nebraska of which the applicant is a graduate and give final and practical examination in operative and prosthetic dentistry.

Sec. 10. **Same—character—qualifications or experience—evidence.**—The department of public welfare or any member of the State Board of Dental Examiners may inquire of an applicant for examination concerning his character, qualifications or experiences, and may take testimony with respect thereto from anyone under oath which they are hereby empowered to administer.

Sec. 11. **License registered with county clerk.**—Every person who shall hereafter be licensed to practice dentistry in this state shall within six months thereafter, register in the office of the clerk of the county where his place of business is located, in a book kept by the clerk for such purposes, and called a Register of Dentists, his name, age, office address, date and number of license to practice dentistry and the date of such registration, which registration he shall be entitled to make only upon showing to the county clerk his license, making an affidavit stating his name, age, birthplace, the number of his license and the date of its issue; that he is the identical person named in the license; that before receiving the same he complied with all the preliminary requirements of this statute and the rules of the department of public welfare as to the terms and amount of study

and examination; that no money other than the fees prescribed in this statute and said rules, was paid directly or indirectly for the license; and that no fraud, misrepresentation or mistake in a material regard was employed or occurred in order that such license should be conferred.

The county clerk shall preserve such affidavit in a bound volume and shall issue to every licentiate duly registering and making such affidavit, a certificate of registration in his county, which shall include a transcript of the registration. Such transcript and license may be offered as a primary evidence in all courts of the facts therein stated. A copy of such certificate of registration shall be sent by the county clerk to the Secretary of the department of public welfare within five days after it is made. The county clerk's fee for taking such registration and affidavit and issuing such certificate of registration shall be one dollar. A practicing dentist having received lawful authority to practice dentistry in any one county of the state, and removing such practice, or part thereof, to another county shall show, or send by registered mail, to the clerk of such other county his certificate of registration. If such certificate clearly shows that the original registration was of authority issued by the department of public welfare, or if the certificate of registration itself is endorsed by the secretary of the department of public welfare as entitled to registration, the clerk shall thereupon register the applicant in the register of dentists of the latter county on a receipt of a fee of one dollar and shall stamp or endorse on such certificate or registration the date and his name, preceded by the words "Registered also in.....County," and return the certificate of registration to the applicant. Any lawfully registered person who shall thereafter change his or her name according to law shall register the new name with a marginal note of the former name with the clerk of the county or counties where he is practicing, and the clerk shall note upon the margin of his or her former registration in ink, the fact of such change, and a cross reference to the new registration. The clerk shall forthwith notify the Department of such change. Any county clerk who shall make or knowingly allow to be made upon the register of dentists kept in his office any entry other than provided for in this article, shall be liable to a penalty of

fifty dollars. Any failure, neglect, or refusal on the part of any person holding such license to register the same with the clerk of said county as above directed for a period of six months after the issuance thereof shall IPSO FACTO work a forfeiture of his license, and it shall not be restored except upon payment to the said State Board of Dental Examiners of the sum of twenty-five dollars. Any suspension, revocation, or reinstatement shall be with the date thereof forthwith noted by the county clerk on the margin of the registration thereof upon the receipts of notice from the Secretary of the State Board of Dental Examiners.

Sec. 12. No person shall be eligible for examination for a license by said State Board of Dental Examiners unless he shall furnish satisfactory evidence of having graduated from a reputable dental college, and shall present satisfactory evidence of having the preliminary education of fourteen Carnegie units, or shall furnish to the State Board of Dental Examiners a certificate of the State Board of Dental Examiners or a similar body of some other state of the United States showing that the applicant has been a licensed practitioner of dentistry in that state for the last five years just previous; PROVIDED, this section shall not prevent students from taking the examination above provided at the end of their second year.

Sec. 13. The term "reputable dental college" shall be held to mean a dental college or dental department of any university or college which shall be adjudged reputable by the Nebraska department of public welfare when its State Board of Dental Examiners, in session, after due examination, report that the institution in question fully meets the requirements for graduation are such that they would recommend it for recognition by the other dental colleges in the United States.

Sec. 14. **Fees.**—Every person applying to the department of public welfare for a license to practice dentistry at the regular semi-annual meeting, shall pay to the treasurer of said State Board of Dental Examiners a fee of twenty dollars which in no case shall be refunded. Any person desiring to obtain a license to practice dentistry may take said examination at a special meeting of the Board to be called for that purpose upon the payment of the regular fee herein provided, and addition thereto, all the necessary expenses incident to the conducting of said

special examination; and if more than one applicant, the expense of conducting said special examination shall be pro-rated among the applicants. All students who take the examination in the subjects completed at the end of the second year, as above provided, shall at the time of taking such examination pay a fee of ten dollars, and when their final examination is taken in all other studies after graduation, shall pay a further fee of ten dollars, which fee shall in no case be refunded. When an applicant for a license fails to pass an examination, no extra charge or fee shall be demanded for a second examination. Necessary expenses, compensation of said State Board of Dental Examiners in attendance on meetings and expenses incurred in the prosecutions of violations of this article, and the salary of the secretary of the State Board of Dental Examiners, not to exceed two hundred and fifty dollars per year, shall be paid out of the fees and funds provided for in this article. All moneys received for licenses shall constitute a fund as hereinbefore provided and may be expended only on the joint order of the President and Secretary of said State Board of Dental Examiners.

Sec. 15. **“Practice” defined.**—Any and all persons shall be understood to be “practicing” dentistry, within the meaning of this article, who shall for a fee, salary or reward, paid directly or indirectly, either to himself or to some other person, perform operations of any kind upon, or treat diseases or lesions of the human teeth or jaw, or correct irregularities thereof, or display a sign, or in any other way advertise himself as a dentist; but nothing in this article shall prohibit BONA FIDE students of dentistry from operating in the clinical departments of a reputable dental college, or an unlicensed person performing merely mechanical work on inert matter in a dental office or laboratory, or a duly licensed physician from treating diseases of the mouth, or performing operations in oral surgery. But nothing in the provisions of this article shall be construed to permit the performance of dental operations by any unlicensed persons under cover of the name of a regular practitioner of dentistry.

Sec. 16. **Acts prohibited.**—Any person shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable with a fine of not less than fifty dollars, or more than five hundred dollars, or by imprisonment of not less than five days nor

more than ninety days in the county jail, or both by fine and imprisonment, who:

First—Shall barter or sell, or offer to barter or sell any diploma or document, conferring or purporting to confer any dental degree, or any certificate or transcript, made or purporting to be made pursuant to the laws regulating the license and registration of dentists; or

Second—Shall purchase or procure by barter any such diploma, certificate or transcript, with intent that the same shall be used as evidence of the holder's qualifications to practice dentistry, or in fraud of the laws regulating such practice; or

Third—Shall, with fraudulent intent, alter in a material way any such diploma, certificate or transcript; or

Fourth—Shall use or attempt to use any such diploma, certificate or transcript, which has been purchased, fraudulently issued, counterfeited, or materially altered, either as a license or color of license to practice dentistry, or in order to procure registration as a dentist; or

Fifth—Shall practice dentistry under a false or assumed name; or

Sixth—Shall assume the degree of "Doctor of Dental Surgery," or "Doctor of Dental Medicine," or shall append the letters "D. D. S.," or "D. M. D." to his or her name, the same not having been duly conferred upon him or her by diploma from a recognized dental college or school legally empowered to confer the same, or shall assume any title, or append any letters to his or her name with intent to represent falsely that he or she has received a dental degree or license; or

Seventh—Shall in an affidavit required of an applicant for examination, license or registration, under this article, wilfully make a false statement in a material regard; or

Eighth—Shall engage in the practice of dentistry under any title without causing to be displayed in a conspicuous manner and in a conspicuous place in his or her office the name of each and every person employed in the practice of dentistry therein; or

Ninth—Shall within ten days after demand, made by the Secretary of the department of public welfare, fail to furnish to

said Secretary the name and address of all persons practicing or assisting in the practice of dentistry in the office of said person, at any time within sixty days prior to said notice together with a sworn statement showing under and by what license or authority said person or said employee is and has been practicing dentistry; or

Tenth—Is practicing dentistry in the state without a license, or after his or her license has been revoked or suspended.

Sec. 17. **Rights of colleges.**—Nothing in the foregoing section shall affect the conferring of degrees and granting of diplomas by reputable dental colleges of this state, nor shall their rights and privileges under the laws of this state be hereby abridged in any manner.

Sec. 18. **License revoked—when.**—The department of public welfare may revoke or suspend the license of any dentist for any of the following causes:

1. Conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction, or certified copy thereof, certified by the clerk of the court, or the judge in whose court the conviction is had, shall be sufficient evidence.

2. For unprofessional conduct, gross ignorance, or incompetency in his profession. "Unprofessional conduct" shall mean the employment of what are known as cappers, or steerers, to obtain business; the obtaining of any fee by fraud of any misrepresentation; wilfully betraying professional secrets; employing directly or indirectly any student or suspended or unlicensed dentist to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malimposed formations thereof, except as provided in this article; the advertisement of dental business, or treatment, or devices, in which untruthful, improbable, or impossible statements are made; or habitual intemperance or gross immorality.

Sec. 19. **Same—complaint.**—The proceedings to revoke or suspend any license under the first sub-division in the next preceding section, must be had by the department of public welfare on the receipt of a certified copy of the record of conviction.

All accusations must be in writing, verified by some party familiar with the facts therein charged, and must be filed with

the secretary of the department of public welfare. Upon receiving the accusations and upon recommendation of the Board of Dental Examiners, the department of public welfare, if it deem the charge sufficient, may make an order setting the same for a hearing and requiring the accused to appear and answer at a specified time and place, and the secretary of said department shall cause a copy of the order and of the accusation to be served upon the accused at least ten days before the day appointed in the order, to answer the charges and make his defense thereto, unless for sufficient cause the department of public welfare assign another day for that purpose. If he does not appear, the department of public welfare may proceed and determine the accusation in his absence. If the accused plead guilty or refuse to answer the charges or upon a hearing thereof the department of public welfare shall find them or any of them to be true, it may proceed to a judgment revoking or suspending the license of the accused. The department of public welfare and the accused may have the benefit of counsel, and the department of public welfare shall have the power to administer oaths, and take the depositions of witnesses in a manner provided by law in civil cases. Upon the revocation of any license the fact shall be noted upon the records of the department of public welfare and the license shall be marked as cancelled, upon the date of its revocation. Whenever a license is revoked or suspended as herein provided, and the person whose license is revoked or suspended as herein provided, appeals, said person shall have no right to practice dentistry pending said appeal, and any person practicing dentistry as hereinafter defined after his license is revoked or suspended during said appeal, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not less than \$50.00 nor more than \$500.00 or imprisonment of not less than five days nor more than ninety days in the county jail, and in addition thereto may be enjoined as hereinafter provided.

Sec. 20. Violation — injunction — procedure — penalty. —

Whenever any person is found violating any of the provisions of this act, the department of public welfare or any citizen may maintain an action in equity in the name of said department, or said citizen to perpetually enjoin said person from doing any of the acts above described, said action to be brought in the county

in which said acts are claimed to have been committed, and in such action the court or a judge in vacation, shall, upon the presentation of a petition therefor alleging the doing of any of said act or acts and the filing of a bond to be approved by the court, allow a temporary writ of injunction, upon presentation of a copy of the order revoking or suspending the license, if the act consists of a violation of the revocation or suspension, and in all other cases if it shall be made to appear to the satisfaction of the court or judge in the form of an affidavit, deposition, oral testimony or otherwise as the claimant may elect, that the acts have been committed, unless the court or judge shall direct the form and manner in which the testimony is to be presented. Three days' notice in writing shall be given the defendant of the hearing of the application, and if then continued at his instance the temporary writ as prayed, shall be granted as a matter of course. When an injunction has been granted it shall be binding on the defendant throughout the state, and any violation of its provisions shall be a contempt and prosecuted as hereinafter provided. In case of violation of any injunction granted under the provisions of this act the court, or in vacation, the judge thereof, may summarily try and punish the accused. Proceedings may be commenced by filing with the clerk of the court any information under oath setting out the alleged facts constituting said violation upon which the offender shall be arrested. The trial may be had upon affidavits or either party may demand the production and oral examination of the witnesses, if within the jurisdiction of the court. A party found guilty of contempt under the provisions of this section, shall be punished by a fine of not less than \$50.00 and not more than \$500.00 or by imprisonment in the county jail for not less than thirty days nor more than six months, or by both fine and imprisonment.

Sec. 21. **Report.**—The State Board of Dental Examiners shall make an annual report of their proceedings to the state department of public welfare, by the first of December of each year, together with an account of all moneys received and paid out of into the state treasury by them pursuant to this article.

Sec. 22. **License issued by other states.**—The department of public welfare, upon the recommendation of the State Board of Dental Examiners, may, without examination, issue a license to

practice to any dentist who shall have been in legal practice in some other state or territory for a period of at least five years just previous, upon the certificate of the State Board of Dental Examiners of the state or territory in which such dentist was a practitioner, certifying his competency and that he is of good moral character and upon the payment of twenty dollars; provided, however, the state from which any practitioner may come shall have and maintain equal standards of laws regulating the practice of dentistry and recognize exchange certificates issued by the department of public welfare of the State of Nebraska. Provided, further, that said applicant shall be compelled to take a practical satisfactory examination in operative and prosthetic dentistry before the State Board of Dental Examiners before said license shall issue.

DIVISION V.

NURSES.

Section 1. **Certificate required—application—fees—qualifications.**—No person, unless previously registered or licensed to act as a registered nurse in this state at the time this act becomes operative, shall be allowed to practice as a trained, graduate, or registered nurse without first applying for and obtaining a certificate for such purpose from the department. Such application shall be made to the department in writing, and shall be accompanied by a fee of five (\$5.00) dollars, together with satisfactory proof that the applicant is a citizen of the United States and an actual bona fide resident of the state of Nebraska, is not less than twenty-two (22) years of age, and after June first, 1920, has received an education equivalent to two years of high school, provided, however, that such high school education shall not apply to persons in training at the time of the approval of this act; is a graduate of and has a diploma from an accredited school for nurses requiring a systematic course of three (3) years' training. An accredited school for nurses within the meaning of this act shall be a school primarily or by affiliation meeting the requirements promulgated by the American National Red Cross. When such application is found satisfactory, the department shall notify the applicant to appear before it for examination. The examina-

tion shall be of a character sufficiently strict to test the qualifications of the candidate as a practitioner, and shall be conducted under the rules and regulations prescribed by the department which shall provide for a fair and wholly impartial method of examination by a board of three examiners to be chosen by the department, who shall be regularly licensed and registered trained nurses in Nebraska for a period of at least three years. The department, upon written application and upon payment of five (\$5) dollars as registration fee shall issue a certificate without examination of the applicant, if said applicant has been registered as a registered nurse under the law of another state having, in the opinion of said department, an equal or higher standard than the state of Nebraska for the registration of nurses.

DIVISION VI.

PHARMACY.

Section 1. **License required—application—fees—qualifications—proof—examinations.**—It shall be unlawful for any person, not heretofore licensed in this state, to practice pharmacy in any of its branches in this state without first having applied for and obtained from the department of public welfare a license so to do. Application therefor shall be in writing and shall be accompanied by an examination fee of five dollars and with proof that the applicant is of good moral character, and is of the age of twenty-one years. Applications from candidates who desire to practice pharmacy shall be accompanied by proof either, First, that the applicant has had three years of practical experience under the instruction of a registered pharmacist and that he is a graduate of an accredited four year high school and shall have passed a satisfactory examination by the board of pharmacy as herein provided showing that the candidate's knowledge of pharmacy is equal to that of a two year course of pharmacy in a recognized school or college of pharmacy or a department of pharmacy of a university or college, whose standards are equal to those recognized by the state board of pharmacy, or, Second, that the applicant is a graduate of an accredited four year high school and is also a graduate of a school or college of pharmacy or a department of pharmacy of a university or college which

maintains a four year course in pharmacy, consisting of not less than thirty-six weeks of instruction each school year with a vacation of not less than two months intervening between each school year, and conferring upon graduation the degree of "Bachelor of Science." Examinations shall be of such a character sufficiently strict to test the qualifications of the candidate as a practitioner and shall be conducted under rules and regulations prescribed by the department which shall provide for a fair and wholly impartial method of examination, by a board of three examiners to be chosen by the department of public welfare, who shall be skillful retail apothecaries of seven years practical experience, actually engaged in said business in the state of Nebraska, and for such services they shall receive fifteen dollars (\$15.00) per diem and actual expenses incurred in the actual discharge of their duties. In case of the failure of any applicant to pass a satisfactory examination, the money shall be held to his credit for a second examination at any time within a year. Examination may be dispensed with by the department in case of a pharmacist duly licensed and authorized to practice pharmacy in any other state, territory or the District of Columbia, who presents a certificate or license issued by such state, territory, or District of Columbia, accompanied by a fee of five dollars, provided the requirements of such state, territory or District of Columbia are equal to the requirements of this state. Licensed applicants shall be registered by the department as registered pharmacists.

Sec. 2. (2730) "**Licentiates**" defined.—No person other than a licentiate shall be entitled to a register as a pharmacist. Licentiate in pharmacy within the meaning of this article shall be such person, not less than eighteen years of age who shall have had not less than three years practical experience in pharmacy, or is a licentiate of a board of pharmacy, and who shall have passed a satisfactory examination touching his competency before said board of examiners. Licentiates in pharmacy shall at the time of passing their examination be registered by the department of public welfare as registered pharmacists.

Sec. 3. **Examination fees.**—All persons making application for examination or registration as in this article provided, shall pay to the department of public welfare the sum of fifteen dollars.

Sec. 4. **(2732)—Renewal of registration.**—Every registered pharmacist who desires to continue the practice of his profession shall annually after the expiration of the first year of his registration during the time he shall continue in such practice, on or before the 24th day of March of each year, pay to the said department of public welfare, a registration fee of one dollar, for which he shall receive a renewal of said registration. Every person receiving a certificate under this article shall keep the same conspicuously displayed in his place of business. Every registered pharmacist shall, after changing his place of business or employment, as designated by his certificate, notify the department of public welfare of his new place of business. If any pharmacist shall fail or neglect to procure his annual registration or to comply with the other provisions of this section, his right to act as such pharmacist shall cease at the expiration of ten days from the time notice of such failure to comply with the provisions of this section shall have been mailed to him by the department, and such pharmacist shall be barred from the practice of pharmacy until he shall have made application and passed the examination provided for in this article.

Sec. 5. **(2733) False representation.**—Any registrations obtained through false representation shall be void, and the department of public welfare may hear complaints and evidence, and may revoke such certificates as it may deem improperly held.

Sec. 6. **(2734) Pharmacy shall have registered pharmacist or assistant—penalty.**—Any proprietor of a pharmacy who, not being a registered pharmacist, shall fail or neglect to place in charge of such pharmacy a registered pharmacist, or any such proprietor who shall by himself or any person permit the compounding or dispensing of prescriptions or the vending of drugs, medicines or poisons in his store or place of business, except by or in the presence of, or in and under the supervision of a registered pharmacist; or any person not being a registered pharmacist, who shall take charge of or act as manager of such pharmacy or store, or who, not being a registered pharmacist shall retail, compound or dispense drugs, poisons or medicines of any kind, or any person violating any provisions of this article to which no other penalty is herein attached, shall be deemed guilty of a misdemeanor, and for every such offense, shall, upon conviction

thereof, be punished by a fine of not less than ten dollars nor more than one hundred dollars, or shall be imprisoned in the county jail not less than ten days nor more than ninety days. Nothing in this article shall be construed to prohibit a registered pharmacist from employing an apprentice in pharmacy.

Sec. 7. (2735) **Vendors of patent medicines and physicians exempt.**—Nothing in this article shall prevent any wholesale or retail dealers in any business from selling any patent or proprietary medicines, nor any resident registered physician from dispensing his own medicines on his own prescription.

Sec. 8. (2736) **Adulteration—penalty.**—No person shall add to or remove from any drug, medicine, chemical or pharmaceutical preparation any ingredient or material, for the purpose of adulteration or substitution, which shall deteriorate the quality, commercial value, or medical effect, or which shall alter the nature or composition of such drug, medicine, chemical or pharmaceutical preparation, so that it will not correspond to the recognized tests of identity or purity. Any person who shall thus wilfully adulterate or alter, or cause to be adulterated or altered, or shall sell or offer for sale any such drug, medicine, chemical or pharmaceutical preparation, or any person who shall substitute or cause to be substituted one material for another, with the intention to defraud or deceive the purchaser, shall be guilty of a misdemeanor and, upon conviction thereof shall, for the first offense be fined not less than ten dollars nor more than one hundred dollars, and for each subsequent offense not less than twenty-five dollars nor more than one hundred dollars.

DIVISION VII.

OPTOMETRY.

Section 1. **License required—application—examination.**—No person shall practice optometry in this state without having applied for and obtained from the department of public welfare a license so to do. Applications therefore shall be in writing and shall be accompanied by the examination fees hereinafter specified, and by proof that the applicant is of good moral character. The department of public welfare shall notify the applicant to appear before it for examination at the time and place mentioned

in the notice. The examination shall be of a character sufficiently strict to test the qualifications of the candidate as a practitioner. All the examinations provided for in this article shall be conducted under the rules and regulations prescribed by the department, which shall provide for a fair and wholly impartial method of examination by a board of three examiners, to be chosen by the department who shall be persons regularly licensed to practice optometry in this state and who have been actually engaged in such practice for a period of at least five years.

Sec. 2. Certificate—issuance—filing—rights conferred.—If upon investigation of the proofs submitted to the department and after examination as hereinbefore provided, the applicant shall be found entitled to practice there shall be given to said applicant the certificate of said department under its seal stating such fact, and it shall be the duty of the applicant before practicing to file such certificate, or a copy thereof, in the office of the county clerk of the county in which he or she resides or intends to practice. Such certificate or copy shall be filed and recorded by the county clerk. Said certificate shall confer upon the holder thereof the right to practice optometry in the state of Nebraska as defined in Section 3 of this article.

Sec. 3. "Optometry" defined—application of article.—The practice of optometry is defined to be the employment of any means, other than the use of drugs, for the measurement of the powers of vision and the adaptation of lenses for the aid thereof. The provisions of this article shall not be construed to apply to permanently located physicians duly licensed to practice medicine, osteopathy or chiropractic under the laws of this state, nor to persons who sell spectacles or eye glasses on prescription of any duly licensed optometrist or physician, nor to permanently located dealers in spectacles or eye glasses who neither practice nor profess to practice optometry.

Sec. 4. Examination and certificate fee.—Every applicant making application for an examination and a certificate under the provisions of this article shall pay to the department the sum of fifteen dollars. All such fees shall be equally divided among the members of the board making such examinations as full compensation for their services.

Sec. 5. (2825) **Fees payable for license.**—Every registered optometrist shall, in every year, pay to said department the sum of one dollar as a renewal license fee for such year; such payment shall be made prior to the first day of April in each year and in case of default of payment of such fee by any person, his certificate may be revoked by the department.

Sec. 6. **Revocation of license.**—The department of public welfare shall revoke a certificate for unprofessional conduct of the licensee.

Sec. 7. **Violation—penalty.**—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not to exceed one hundred (\$100.00) dollars or by imprisonment in jail not to exceed thirty days.

DIVISION VIII.

CONTAGIOUS DISEASES.

Section 1. (2737) **County board prevent contagious diseases.**—The county boards of the several counties shall make and enforce regulations to prevent the introduction and spread of contagious, infectious and malignant diseases in their respective counties; to that end they shall make and enforce quarantine rules, and establish in each county a board of health. One member of the board of health shall be a legally registered physician, the board shall have jurisdiction throughout all the territory comprising said county, except incorporated cities and villages having the power to establish boards of health and quarantine regulations. When quarantine rules and regulations have not been made and a board has not been appointed as above provided for, the county board of supervisors or commissioners shall enforce the quarantine rule and regulations of the state board of health.

Sec. 2. **Department of public welfare—rules—quarantine.**—The department of public welfare shall have supervision and control of all matters relating to necessary sanitation and quarantine, the department shall formulate, adopt and publish such proper and reasonable general rules and regulations as will best serve to promote sanitation throughout the state, and prevent

the introduction or spread of disease. In addition to such general and standing rules and regulations, in cases of emergency wherein the health of the people of the entire state or any locality therein shall be menaced by or exposed to any contagious, infectious or epidemic disease or diseases arising from unsanitary conditions, or when a local board of health having jurisdiction of a particular locality shall fail or refuse to act with sufficient promptitude and efficiency in any such emergency, or in localities wherein no local board of health shall have been established, as provided by law, the department of public welfare shall adopt and enforce special quarantine and sanitary regulations such as the occasion and proper protection of the public health may require. All necessary expenses incurred in the enforcement of such rules and regulations shall be paid by the city, village or county, for and within which the same shall have been incurred. All officers and other persons shall obey and enforce such quarantine and sanitary rules and regulations as may be adopted by the department of public welfare. Any person who shall fail, neglect or refuse to obey or enforce such rules or regulations shall, upon conviction, be fined not less than fifteen dollars or more than one hundred dollars for each offense.

Sec. 3. (2740) Contagious diseases reported to department.

—All boards of health and physicians in localities where there are no boards of health, or where such boards fail to act, shall report to the department of public welfare promptly upon the discovery thereof, the existence of any one of the following diseases, viz: Asiatic cholera, yellow fever, smallpox, scarlet fever, diphtheria, typhus and typhoid fever and such other contagious and infectious diseases as the state board of health may from time to time specify. Any member of the board of health, or other officer or physician, knowing of the existence of any such disease, who shall fail promptly to report the same in accordance with the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than ten dollars nor more than one hundred dollars for each offense.

Sec. 4. (2743) Common drinking cup—department may prohibit use.—To prevent the spread of communicable diseases, the department of public welfare may prohibit in such public

places, vehicles or buildings as it may designate, the use of a common drinking cup and to establish rules and regulations for this purpose.

Sec. 5. (**Chap. 181, 1917**) **Duties of department.**—It shall be the duty of the department of public welfare, in addition to other duties provided by law, to secure and maintain in all parts of the state, an efficient registration of births and deaths, and official record and notification of reportable diseases; to provide popular literature upon the different branches of public health and distribute the same free throughout the state in a manner best calculated to promote that interest; to prepare and exhibit in the different communities of the state public health demonstration, accompanied by lectures, and moving pictures and in all other effective ways to prevent the origin and spread of diseases and promote the general public health.

Sec. 6. **Violation—penalty.**—Any person violating any of the provisions of this article or any lawful rule or regulation of the department of public welfare, shall be deemed guilty of a misdemeanor, and upon conviction, be fined in any sum not exceeding twenty-five dollars for each offense.

DIVISION IX.

VITAL STATISTICS.

Section 1. **Duties of the state department of health.**—The department of public welfare shall provide for the registration of births and deaths, and shall promulgate and enforce such rules as are necessary to carry out the purposes of this article.

Sec. 2. **Registration districts.**—Each city, village and township shall constitute a primary registration district.

Sec. 3. **Local registrars.**—The department shall appoint local registrars who shall have such territorial jurisdiction as may be conferred upon them by the department.

Sec. 4. **Same—tenure of office—deputies.**—Local registrars shall hold office during the pleasure of the department. They shall, immediately after their appointment, select deputies to act for them when they are absent, ill, or otherwise disqualified.

Sec. 5. **Birth certificate—form—contents.**—A birth certifi-

cate in the form prescribed by the United States census bureau shall be filled out by the physician, or other person in attendance, for every child born in the state, or if no person was in attendance, then by the parent, the superintendent of any institution in which the birth may have occurred, or by some other responsible person. Such certificate shall be filed with the local registrar within three days after any birth. In case the child is not then named, a supplemental certificate reporting its given name shall be filed as soon thereafter as such child is named.

Sec. 6. Death certificate—form—contents.—A death certificate in the form prescribed by the United States census bureau shall be filled out by the physician last in attendance, if one was in attendance, or if not, by the coroner or local health officer, of every person dying or found dead in this state. Such certificate shall be filed with the local registrar before the body is interred or otherwise disposed of, or removed from the locality where the death occurred. Upon receipt thereof, the local registrar, shall issue a burial or removal permit. No body shall be interred or accepted by a railroad company for transportation without the registrar's permit and a copy of the death certificate. All burial or removal permits when received shall be dated and countersigned by the sexton of the cemetery or the agent of the transportation company as the case may be, and returned within ten days to the local registrar by whom issued with a report as to the disposition made of the body.

Sec. 7. Child born dead—how registered.—A child born dead shall be registered as a birth and also as a death. In such cases separate certificates of both the birth and the death shall be filed with the local registrar in the usual form, and the month of uterogestation as nearly as possible shall be stated. Such certificate shall not be required for a child that has not advanced to the fifth month of utero-gestation. If the attendant was not a physician, the death shall be referred to the health officer or county attorney for certification.

Sec. 8. Certificates—how written—when complete.—Certificates shall be written legibly in durable black ink and shall not be deemed complete unless they disclose or satisfactorily account for the omission of all items of information called for.

Sec. 9. Local registrars—reports by.—Local registrars shall, on the fifth day of each month, forward to the department the original certificates filed with them during the preceding month. In case no birth or no death has occurred, the local registrar shall so report on a card provided for that purpose.

Sec. 10. Removal permits.—A removal permit issued in accordance with the law of the place where the death occurred, may be accepted by the local registrar of the place where the body is to be interred or otherwise disposed of, as a basis for the issuance of a burial permit, and in his return to the state registrar, the place of death shall be stated. When no physician was in attendance, the undertaker or local registrar shall refer the case to the health officer for a death certificate. If the circumstances indicate that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification, and he shall state the cause of death and the means or instrument by which it was produced.

Sec. 11. Retail dealers in caskets—records—reports.—Every retail dealer in caskets shall keep a record of sales which shall include the name and postoffice address of the purchaser, and the name, and the date and place of death of the deceased. A report thereof shall be forwarded to the department on the first day of each month. This requirement shall not, however, apply to sellers of caskets to dealers or undertakers only. Every seller of a casket at retail who does not have charge of the disposition of the body, shall enclose within the casket a notice calling attention to the requirements of the law, and a blank certificate of death.

Sec. 12. Maternity homes and lying-in hospitals—reports.—Maternity homes and lying-in-hospitals and places used as such, shall report to the department quarterly on the first day of January, April, July and October the sex and date of birth of all children born in their respective institutions during the preceding quarter. The report shall also show the names and addresses of the parents and attending physicians.

Sec. 13. Additional duties of department.—The department shall supply all necessary blanks, forms and instructions to the local registrars, and through them to physicians and undertakers.

It shall, quarterly, certify to the county board of each county the number of certificates of birth and death received from each local registrar in the county. For each certificate and for each report of no birth or no death, the local registrar shall be entitled to the sum of twenty-five cents to be paid by the county.

Sec. 14. **Same.**—The department shall preserve permanently and index all certificates received. It shall, on payment of a fee of fifty cents, furnish any applicant therefor a certified copy of any certificate. For a search of the records and files a charge of fifty cents for each hour or fraction thereof employed shall be made. The department shall, upon request of any parent or guardian who shall require the information for the purpose of admitting a child to school or securing employment, supply, without charge a certificate limited to a statement of the date of birth. The United States census bureau may obtain, without expense to the state, transcripts or certified copies of certificates without the payment of any charge.

Sec. 15. **Violation—penalty.**—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not less than ten (\$10.00) dollars nor more than one hundred (\$100.00) dollars, or be imprisoned in the county jail for not more than sixty days, or both.

Sec. 16. **(2754) County judge report marriage license.**—The county judge of each county shall on or before the first day of February of each year, return to the secretary of the department of public welfare, upon suitable blank forms, to be provided by the state, an abridged statement of all marriage licenses issued by him during the preceding calendar year, specifying in each case; 1. Record number and date of the licenses. 2. Full names of the husband and wife. 3. Residence of each party. 4. The color of each party. 5. The age of each party. 6. Date of marriage. 7. Place of marriage. 8. By whom the marriage ceremony was performed. 9. Names of parents or guardians where either party is under age. Upon neglect or refusal to make such returns, such county judge shall, for each such neglect or refusal forfeit and pay the sum of twenty-five dollars for the use of the proper county, to be collected as debts of like amount are now collectible.

Sec. 17. (2755) Department tabulate marriage reports.—The department of public welfare shall annually prepare, from said returns, abstracts and tabular statements of the facts relating to marriage in each county.

Sec. 18. (2756) District clerk report divorce.—The clerk of the district court of each county shall on or before the first day of February of each year make and return to the department of public welfare upon suitable blanks furnished by the department a statement of each suit for annulment of marriage or divorce brought or acted upon in the court of which he is clerk, during the preceding calendar year specifying in regard to each case as follows. 1. Record number. 2. Full name of plaintiff and defendant. 3. Age of each. 4. Color of each. 5. Occupation of each. 6. Date of marriage. 7. Place of marriage. 8. Residence of each at time of marriage. 9. Date of separation. 10. Date of filing the petition. 11. The alleged cause or causes for annulment or divorce. 12. Whether intemperance was a direct or indirect cause. 13. Kind of relief prayed for. 14. Residence of each at time of suit brought. 15. Manner of service of summons. 16. Whether the suit was contested or not. 17. Date of decree. 18. Nature of decree. 19. Final disposition of case. 20. Whether alimony was asked—and granted. 21. Number of children by the marriage. 22. Number of children affected by the decree. 23. If cross-bill was filed a similar return relating thereto. For such returns each clerk shall receive twenty-five cents for each case, to be paid by the county, Upon neglect or refusal to make such returns, such clerk shall, for each neglect or refusal, forfeit and pay the sum of twenty-five dollars, for the use of the proper county; to be collected as debts of like amount are now collectible.

Sec. 19. (2757) Department tabulate divorce reports.—The department of public welfare shall annually prepare, from said returns, abstracts, and tabular statements of facts relative to divorce in each county.

DIVISION X.

MATERNITY HOMES.

Section 1. (2758) “Maternity Home” defined.—Whoever keeps for care or treatment within a period of six months, more

than one woman during pregnancy, or during or after delivery, except women related by blood or marriage; or has in his or her custody or control, at any one time, two or more infants under the age of two years, unattended by parents or guardians, for the purpose of providing them with care, food and lodging, except infants related to him or her by blood or marriage, shall be deemed to maintain a maternity home or maternity boarding house, or home for the care of infants, or lying-in-hospital. The provisions of this section shall not apply to any state institution, children's home, or to any juvenile court, society or institution having the care of children under its control, duly incorporated under the laws of Nebraska: Provided, any maternity home, boarding house, or home for the care of infants or hospital incorporated under the laws of Nebraska for the purpose of caring for children and placing them in homes shall first apply to and secure approval for such incorporation from the department of public welfare.

Sec. 2. (2759) **Maternity home—license.**—No person shall conduct or maintain a maternity home or maternity boarding house, or home for the care of infants or lying-in-hospitals or to engage in, or assist, in conducting a business of placing infants in permanent homes without having in full force a written license from the department of public welfare; Provided, nothing in this article shall apply to any state institution or to any juvenile court or to any society or association incorporated under the laws of the state of Nebraska for the purpose of caring for children and for placing them in homes.

Sec. 3. (2760)—**Lying-in hospitals—records.**—The department of public welfare may grant licenses to maintain maternity homes or maternity boarding houses or homes for the care of infants, or lying-in hospitals. An application therefor shall first be approved by the board of health of the city or village in which such maternity home, or maternity boarding house or home for the care of infants, or lying-in hospital is to fare. A record of the same shall be kept in the office of the department and a notice shall be given to the board of health of the city or village in which the licensee resides, of the granting of such license and of the terms thereof. Such license shall be granted for a term not exceeding one year and shall state the name of the licensee,

the particular premises in which the business may be carried on, giving the street number, the number of women or infants that may be boarded, cared for, treated or maintained there at any one time. It shall be the duty of the board of health of the city or village in which such maternity home or maternity boarding house or home for the care of infants or lying-in hospital is located to visit said premises at any time, and as often as may be deemed necessary, and to inspect the same or designate any person to visit and inspect premises so licensed, and to request, if deemed desirable, that the license shall be kept posted in a conspicuous place on the licensed premises. A fee of three dollars shall be paid to the department of public welfare prior to the issuance of such license.

Sec. 4. (2761) Number of patients not exceed license.—No greater number of women and infants shall be kept at one time on such premises than is authorized by the license and no women or infants shall be kept in a building or place not designated in the license.

Sec. 5. (2762) License revoked—when.—The department of public welfare may revoke such license, when a provision of this article is violated, or when, in the opinion of the department, such maternity home or maternity boarding house or home for the care of infants or lying-in hospital is maintained without due regard to the health, comfort or morality of the inmates thereof, or without due regard to sanitation and hygiene. When the license is revoked, written notice shall be served by the department of public welfare upon the licensee either in person or by leaving such notice on the licensed premises. At the same time notice of revocation shall be given to the board of health of the city or village in which the licensee is located.

Sec. 6. (2763) Births reported.—A birth which takes place in a maternity home or maternity boarding house or home for the care of infants or lying-in hospital shall be attended by a legally qualified physician who shall forthwith report it to the board of health of the city or village in which the maternity home, boarding house or home for the care of infants or lying-in hospital is located. All stillbirths and premature births of every kind shall be reported in the same manner as is above required.

Sec. 7. (2764) **Records to be kept.**—A person holding a license shall keep a record, in form to be prescribed by the department of public welfare, wherein the licensee shall enter the names and addresses of physicians attending at births taking place in such house or hospital, or attending any sick infant; the name, age and sex of children born on the premises or brought thereto, and age of a child who is taken away, together with the name and residence of the person taking such child away.

Sec. 8. (2765) **Placing infants in homes.**—Whoever advertises himself or herself as ready to assist in placing or finding homes for infants, or to otherwise dispose of infants under two years of age, or whoever actually places or assists in placing in homes or persons other than relatives, or causes or assists in causing the adoption or disposal otherwise of infants under two years of age, shall be deemed as engaging, or assisting, in conducting a business of placing infants. No person shall engage in said business of placing infants: Provided, nothing herein shall apply to any state institution or to any juvenile court or to any society or association incorporated under the laws of the state of Nebraska for the purpose of caring for and placing children in homes.

Sec. 9. (2766) **Licensee give notice of death.**—A licensee shall give immediate notice to the board of health of any death occurring in his institution.

Sec. 10. (2767) **Coroner called—when.**—The board of health shall forthwith call the coroner of the county in which said person died to hold an inquest on the body of the person, unless a certificate, under the hand of a legally qualified physician, is exhibited to said board by the licensee stating that such physician personally attended and examined the person so dying, and specifying the cause of death, and the board of health is satisfied that there is no ground for holding an inquest.

Sec. 11. (2768) **Disposition of infants.**—No person shall give an infant under two years of age into the permanent care and control of another person and no person shall receive such infant with a view to adoption or to permanent care without application to the proper court for adoption. The provisions of this section shall not apply to any state institution or to any society

or association incorporated under the law of the state of Nebraska for the care of children and for placing children in homes.

Sec. 12. (2769) **Advertisement—when lawful.**—A licensee shall not advertise that it will procure the adoption of babies and shall not hold out inducements to mothers of illegitimate children or to any parents to part with their offspring.

Sec. 13. (2770) **Violation—penalty.**—Any person who violates any provisions of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed three hundred dollars, or imprisoned in the county jail not more than one year, or both.

DIVISION XI.

PLACING DEPENDENT AND DELINQUENT CHILDREN.

Section 1. (5831) **Dependent and delinquent children—regulation of care and control.**—No person, other than a parent, shall place out, or give the care and custody of, any child, to any person or association, other than temporarily, unless such person shall be duly licensed by the department of public welfare under such rules and regulations as said department shall prescribe. The department may grant or revoke such license and make all needful rules regarding the issuance or revocation thereof.

Sec. 2. (5832) **Dependent children—record.**—Persons or courts, charged with the care of dependent and delinquent children, who shall place out, or give the care and custody of, any child, shall keep and preserve a record of the full name and actual or apparent age of such child, the names and residence of its parents, so far as known, and the name and residence of the person or association with whom such child is placed. If such person or association shall subsequently remove such child from the custody of the person or association with whom it was placed, the fact of such removal and disposition of such child shall be entered upon such record.

Sec. 3. (5833) **Reports of custodian.**—Such persons or courts shall report to the department of public welfare on the first day of each month, specifying the matters and things required in the record mentioned in the next preceding section.

Sec. 4. (5834) **Importing dependent children from other states.**—No association incorporated under the laws of any other state shall place any child in any family home within this state, either with or without indenture or for adoption, without first entering into an undertaking to the department of public welfare with such sureties as the department may require, conditioned that no child having any contagious or incurable disease, or having any deformity, or being of feeble mind, or vicious character, will be brought into the state by such society or its agents; and that it will receive and remove from the same any child brought into the state which shall become a public charge within the period of five years. No person shall receive, to be placed in a home, any child on behalf of any such association which shall not have complied with the requirements of the provisions of this article.

Sec. 5. (5835) **Department to visit children.**—The department of public welfare or such person as it may authorize may visit any child so placed, who has not been legally adopted, with a view of ascertaining whether such child is being properly cared for and living under moral surroundings.

Sec. 6. (5836) **Abuse of children.**—Whenever the department of public welfare has reason to believe that any person having the care or custody of a child placed out, and not legally adopted, is an improper person for such care or custody, or subjects such child to cruel treatment, or neglect, or immoral surroundings, it shall cause complaint to be filed in the proper juvenile court.

Sec. 7. (5837) **Violation—penalty.**—Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not more than thirty days or by a fine of not less than fifty, nor more than two hundred dollars.

DIVISION XII.

PUBLIC CHARITIES AND CORRECTIONS.

Section 1. (5827) **Rules—reports.**—The department of public welfare shall inquire into the whole system of public charities and methods of and practices in the correctional institu-

tions of the state and counties to ascertain the condition thereof from time to time by inspection or otherwise, especially of prisons, jails, infirmaries, public hospitals, asylums, reformatories and industrial schools; and the officers in charge of all such institutions and any officers for the distribution of public outdoor relief shall at all times furnish to said board, upon its request, such information and statistics as it may require. To secure accuracy, uniformity and completeness in statistics, such department may prescribe such forms of reports and registration as it may deem essential. The plans for all new jail buildings, lockups, infirmaries or reformatories shall, before the adoption of the same by the state, county or municipal authorities, be submitted to the department for examination and approval. The department may at any time inquire into the management of any state and county penal, reformatory or charitable institution in the state, and such department, in making such investigation shall have power to send for persons and papers and to administer oaths and affirmations. All investigations undertaken by such department shall be directed wholly toward the betterment of methods pertaining to the health, punishment, education and reformation of the inmates of the various institutions described in this article and the procuring of legislation to that end.

DIVISION XIII.

PARDONS AND PAROLES.

Section 1. (9152) **Indeterminate sentence.**—Every person over the age of eighteen years, convicted of a felony or other crime punishable by imprisonment in the penitentiary, excepting murder, treason, rape and kidnapping, if judgment be not suspended or a new trial granted, shall be sentenced to the penitentiary; but the court imposing such sentence shall not fix the limit or duration of the sentence, but the term of imprisonment of any person so convicted shall not exceed the maximum nor be less than the minimum term provided by law for the crime for which the person was convicted and sentenced; the release of such person to be determined as hereinafter provided.

Sec. 2. **Department to be informed regarding convicts.**—It shall be the duty of the judge before whom the prisoner is tried

and convicted, and of the county attorney, to furnish the department of public welfare, together with warrant of commitment, in writing, all information that they can give in regard to the career of the prisoner before the commission of the crime for which he was sentenced, stating to the best of their knowledge whether the prisoner was industrious, of good character, what his associates were, what his disposition was, and all other facts and circumstances that may tend to throw any light upon the question as to whether such prisoner is capable of becoming a good citizen; and the said department shall also have the power to call upon any other official or person for similar information.

Sec. 3. (9155) **Rules for government of department.**—It shall be the duty of the department to adopt such rules concerning all persons committed to their custody as shall prevent them from returning to their criminal careers, best serve their self-support and accomplish their reformation. When any prisoner shall be received into the penitentiary, the warden shall cause to be entered in a register the date of such admission, the name, age, nativity and nationality, with such other facts as can be ascertained, of parentage, education, occupation, and early social influences, as seem to indicate the constitutional and acquired defects and tendencies of the prisoner, and based upon these, an estimate of the present condition of the prisoner and the best possible plan of treatment. The physician of the penitentiary shall carefully examine each prisoner when received, and shall enter in a register to be kept by him, the name, nationality or race, the weight, stature, description and family history of each prisoner; also a statement of the condition of the heart, lungs and other leading organs, the rate of the pulse and respiration, the measurement of the chest and abdomen, and any existing disease or deformity, or other disability, acquired or inherited. Upon the warden's register shall be entered from time to time, minutes of observed improvement or deterioration of character, and notes as to the method and treatment employed; also all alterations affecting the standing or situation of such prisoner, and any subsequent facts or personal history which may be brought officially to his knowledge, bearing upon the question of the parole or final release of the prisoner.

Sec. 4. (9156) **Same—paroles.**—The department of public

welfare shall have power to establish rules and regulations under which prisoners within the penitentiary may be allowed to go upon parole outside the penitentiary building and enclosure, but to remain while on parole in the legal custody and under the control of the department, and subject at any time to be taken back within the enclosure of said penitentiary. No parole shall be granted in any case until the minimum term fixed by law for the offense has expired. The warden shall have full power to enforce such rules and regulations and to retake and reimprison any inmate so upon parole, upon the order of the department of public welfare, whose order shall be a sufficient warrant for the officer named in it to authorize such officer to apprehend and return to actual custody any conditionally released or paroled prisoners. No prisoner shall be released on parole until the department shall have made arrangements or have satisfactory evidence that arrangements have been made for his honorable and useful employment while upon parole, in some suitable occupation, and also for a proper or suitable home, free from criminal influences.

Sec. 5. (9157) Department to recommend discharge—when.—The department of public welfare shall keep in communication, as far as possible, with all prisoners who are on parole, and also with their employers, and when in its opinion any prisoner who has served not less than six months of his parole acceptably, has given such evidence as is deemed reliable and trustworthy, that he will remain at liberty without violating the law, and that his final release is not incompatible with the welfare of society, the department shall consider the case of the prisoner so presented; and when said department shall decide that said prisoner is entitled to his final discharge, said department shall cause a record of the case of said prisoner to be made, showing the date of his commitment to the penitentiary, his record while detained there, his record while on parole and its reasons for recommending his final discharge, and thereupon the governor shall enter an order for the final discharge of said prisoner from further liability under his sentence. Nothing in this article shall be construed as impairing the power of the governor to grant a pardon or commutation in any case.

Sec. 6. (9158) Provision for convict on discharge.—Upon

the release of any prisoner from the penitentiary, the warden shall provide him with suitable clothing, with ten dollars in money, and shall procure transportation for him to his place of employment. The warden shall make the same provision for any prisoner discharged from the penitentiary by expiration of his maximum sentence, save that he shall procure transportation to his home, if within the state; if not, to the place of his conviction, or to some place not more distant, selected by the prisoner.

Sec. 7. (9159) **Violation of parole—effect of.**—If any prisoner shall violate the conditions of his parole or release as fixed by the department, he shall thereafter be treated as an escaped prisoner owing service to the state, and shall be liable, when arrested, to serve out the unexpired term of his maximum possible imprisonment, and the time from the date of his declared delinquency to the date of his arrest, shall not be counted as any portion or part of time served; and any prisoner at large upon parole or conditional release, who shall commit a fresh crime and upon conviction thereof shall be sentenced anew to the penitentiary, shall be subject to serve the second sentence after the first sentence is served or annulled; said second sentence to commence from the termination of his liability upon the first or former sentence.

DIVISION XIV.

EMBALMERS AND DEAD BODIES.

Section 1. **License required—application—examination.**—No person shall engage in the practice of embalming in this state without first having applied for and obtained from the department of public welfare a license so to do. Application therefor shall be in writing and shall be accompanied by the examination fee hereinafter specified. Applications from candidates who desire to engage in the practice of embalming shall be filed with the department of public welfare, which department shall notify the applicant to appear before it for examination at the time and place mentioned in such notice. The examination shall be of a character sufficiently strict to test the qualifications of the candidates, conducted under rules and regulations prescribed by the department, and which rules shall provide for a fair and wholly impartial method of examination by a board of three examiners

to be chosen by the department, who shall be persons engaged in the practice and business of embalming in this state for a period of at least five years.

Sec. 2. License—issuance—filing—embalmers register—fee.—If upon investigation by the department, and after the examination hereinbefore provided, the applicant shall be found entitled to practice, there shall be issued to said applicant the certificate of said department of public welfare under its seal stating such fact, and it shall be the duty of the applicant before practicing, to file such certificate or a copy thereof, in the office of the county clerk of the county in which he or she resides, or in which he or she intends to practice; such certificate or a copy thereof shall be filed by the county clerk and by him recorded in a book kept for that purpose to be called the "Embalmers' Register", and for such services the county clerk shall receive from the applicant the same fees as are allowed to the register of deeds for the recording of conveyances. Every person making application for an examination and a certificate under the provisions of this article shall pay to the department of public welfare prior to his examination the sum of ten dollars. All such fees shall be equally divided among the members of the board making such examination as full compensation for their services and expenses.

Sec. 3. (2776) Annual fee—renewal.—Every registered embalmer who desires to continue to practice his profession shall annually after the expiration of the first year of his registration, during the time he shall continue in such practice, on or before the first day of January of each year pay to said department a fee of two dollars for which he shall receive a renewal of his certificate of registration. If any embalmer shall fail or neglect to procure his or her annual renewal as above provided, his right to act as an embalmer shall cease thirty days after the expiration of his certificate or renewal thereof, and such certificate shall not be renewed except upon the payment of the same fee and upon the same terms as an original application for a certificate.

Sec. 4. (2780) Penalty for violation.—Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be fined in any sum not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars.

Sec. 5. (2781) —**Dissection of human bodies.**—It shall be lawful to dissect human bodies for scientific, educational and legal purposes within the state of Nebraska under the restrictions hereinafter provided for in this article.

Sec. 6. (2782) **Duty of medical college—bond.**—Each medical college or school shall file with the secretary of state a bond to be approved by said officer in the penal sum of five hundred dollars, conditioned that such bodies will be procured, conveyed and dissected in a manner that shall be private and in no wise shock the sensibilities of the community where such bodies are procured, conveyed or dissected.

Sec. 7. (2783) **Bodies—to be transported.**—No bodies received under the provisions of this article shall be transported outside the limits of this state.

Sec. 8. (2784) **Disposition—dead human bodies.**—The heads of the anatomy departments and the heads of the surgery departments of the medical and dental schools and colleges of this state, which are now or may hereafter become incorporated, shall be, and are hereby constituted a board for the distribution and delivery of dead human bodies, hereinafter described, to and among such persons as, under the provisions of this article, are entitled thereto. The said board shall have full power to establish rules and regulations for its government, subject to the approval of the department of public welfare, and to appoint and remove proper officers, and shall keep full and complete minutes of its transactions; and records shall also be kept, under its direction, of all bodies received and distributed by said board, and of the persons to whom same are distributed, which minutes and records shall be open at all times to the inspection of each member of said board and any county attorney or any county within the state.

Sec. 9. (2785) **Dead bodies—notice to department.**—All public officers, agents and servants of any and every county, city, township, district and other municipality, and of any and every alms-house, prison, morgue, hospital, or other public institution having charge or control over dead human bodies, required to be buried at the public expense, are hereby required to notify the said board of distribution or such person or persons as may, from

time to time, be designated by said board or its duly authorized officer or agent, whenever any such body or bodies come to his or their possession, charge or control; and shall, without fee or reward, deliver such body or bodies, and permit and suffer the said board and its agents, and the physicians and surgeons from time to time designated by them, who may comply with the provisions of this article, to take and remove all such bodies, to be used within this state for the advancement of medical science; but no such notice need be given, nor shall any such body be delivered, if any person claiming to be, and satisfying the authorities in charge of said body that he or she is of kindred or is related by marriage to the deceased, shall claim the said body for burial; but it shall be surrendered for interment; nor shall the notice be given or body be delivered if such deceased person was honorably discharged from any arm of the military or naval service of the United States.

Sec. 10. (2786) **Dead bodies—disposition.**—The said board or their duly authorized agent may take and receive such bodies so delivered, as aforesaid, and shall, upon receiving them, deliver and distribute them to and among the schools, colleges, physicians and surgeons aforesaid, under such rules and regulations as may be adopted by the board aforesaid, subject to the approval of the department of public welfare. The number of bodies so distributed to the schools and colleges shall be in proportion to the number of students matriculated in the first two years in each medical or dental school or college. The expense of such distribution shall be paid by the school or college receiving the body or bodies. If there shall be more bodies than are required by the said schools and colleges, the board of distribution may, from time to time, either directly or through its authorized officers and agents, designate the physicians and surgeons having complied with the rules and regulations of the board who shall receive such bodies and the number they shall receive. If the body is subsequently claimed by any relative, it shall at once be surrendered, by the person, college or school having the same in charge, to such relative after said person or school has been reimbursed for expenses incurred in transportation and care of said body.

Sec. 11. (2787) **Violation—penalty.**—Any public officer,

agent or servant, and any officer, agent or servant of any county, city, township, district or other municipality in this state into whose hands the body of a deceased person shall come, which should be delivered to a medical or dental college or school under the provisions hereof, who shall wilfully neglect to notify the proper officer of the existence of such body, or refuse to deliver the same to a medical or dental college or school, upon the direction of such officer as herein provided, and any such officer who shall wilfully discriminate in favor of any medical or dental college or school in the distribution of such bodies, shall be guilty of a misdemeanor, and upon conviction thereof, be fined in any sum not less than twenty-five (\$25.00) dollars nor exceeding one hundred (\$100.00) dollars; and any person who shall receive or deliver any body or remains, knowing that any of the provisions of the law have been violated, shall be imprisoned in the penitentiary not more than two years, or fined not exceeding twenty-five hundred dollars, or both.

DIVISION XV.

VETERINARY MEDICINE.

Section 1. (Ch. 51, Laws 1915) **License required—application—examination—exemption.**—No person shall engage in the practice of veterinary medicine, veterinary surgery or veterinary dentistry in this state without having applied to and obtained from the department of public welfare a license so to do. Application therefor shall be in writing and shall be accompanied by the examination fees hereinafter specified. The department of public welfare shall notify the applicant to appear before it for examination at the time and place mentioned in such notice. The examination shall be of a character sufficiently strict to test the qualifications of the candidate as a practitioner. All examinations provided for in this article shall be conducted under the rules and regulations prescribed by the department, which shall provide for a fair and wholly impartial method of examination by a board of three examiners, to be chosen by the department, who shall be regularly licensed veterinarians who have been engaged in the active practice of veterinary medicine, veterinary surgery and veterinary dentistry for a period of five years. Pro-

vided that any person engaged in said practice in the state at the time this law becomes effective who is now and has been practicing veterinary medicine, veterinary surgery or veterinary dentistry under the provisions of Section 2832 of the Revised Statutes of Nebraska for 1913 as amended in 1915, may continue said practice on condition that he shall not use or assume the title of any degree or part of a degree conferred by any recognized veterinarian college or university. Nothing in this article shall be construed to prevent any person from advising or assisting any other person gratuitously in the care or treatment of his domestic animals, nor shall this article apply to the vaccination of hogs for cholera or cattle for black leg.

Sec. 2. **Certificate—issuance—filing.**—If upon investigation and after examination as hereinbefore provided, the applicant shall be found entitled to practice there shall be given to said applicant the certificate of said department under its seal stating such fact, and the applicant before practicing shall file such certificate, or copy thereof, with the county clerk of the county in which he resides or intends to practice. Such certificate or copy shall be filed and recorded by the county clerk.

Sec. 3. **Revocation of certificate.**—The department of public welfare may revoke or cancel a certificate previously issued for unprofessional conduct of the licensee.

Sec. 4. **Examination and certificate fees.**—Every applicant making application for an examination and a certificate under the provisions of this article shall pay to the department the sum of ten dollars. All such fees shall be equally divided among the members of the board making the examination as full compensation for their services.

Sec. 5. **Violation—penalty.**—Any person violating the provisions of this article shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than twenty-five (\$25.00) dollars or more than one hundred (\$100.00) dollars, or by imprisonment in the county jail for not more than ninety days.

DIVISION XVI.

CHIROPODY.

Section 1. **Unlawful to practice without registration.**—On and after September 1, 1919, it shall be unlawful for any person to practice or attempt to practice Chiropody (Podiatry) in this State or to hold himself out as a Chiropodist (Podiatrist) or to designate himself or describe his occupation by the use of any words or letters calculated to lead others to believe that he is a Chiropodist (Podiatrist) unless he is duly registered as provided for in this division.

Sec. 2. **“Chiropody” or “Podiatry” defined.**—Chiropody (Podiatry) for purposes of this division, is defined as the surgical, medical and mechanical treatment of all ailments of the human foot, except the correction or deformities requiring the use of the knife, amputation of the foot or toes or the use of an anesthetic other than local.

Sec. 3. **Board of Chiropody—composition—appointment.**—The department of public welfare shall appoint a board of examiners consisting of three members at least two of whom shall be Chiropodists who have practiced in this State for a period of not less than one year who shall receive, from fees collected under this division ten dollars (\$10.00) per day for each day actually engaged and necessary traveling expenses but in no case more than the fees collected under this division. Examinations shall be conducted under rules established by the department and shall cover the following subjects: Anatomy, Physiology, Pathology, Bacteriology, Chemistry, Diagnosis, and treatment, Therapeutics, Clinical Chiropody, and Asepsis limited in their scope to the treatment of the foot. If upon such examination the applicant shall be found qualified, the department shall issue a license to practice chiropody.

Sec. 4. **Same—qualifications to practice.**—Persons engaged in the practice of Chiropody (Podiatry) in this state one year next prior to the first day of April, 1919, shall file with the department on or before September 1, 1919, a written application for a license to practice Chiropody (Podiatry) together with proof satisfactory to the department that the applicant is more than twenty-one years of age and has been practicing Chiropody

in this State for a period of more than one year next prior to the first day of April, 1919, and upon the payment of a fee of ten (\$10.00) dollars the department shall issue such applicant a license to practice Chiropody (Podiatry) in this State.

Sec. 5. **License—filing.**—Every person receiving a license shall file the same with the Clerk of the County in which he resides. It shall be the duty of the Clerk to register the name and address of the licensee and date of the license in a book kept for such purpose and he shall receive the same fees as for recording conveyances.

Sec. 6. **Applicants examined in other states—fees.**—Applicants registered by certificate of examiners of other states whose requirements are equal to those of this state may, upon the payment of a fee of twenty-five (\$25.00) dollars, be granted a license without examination, provided however, that the provisions of this section shall be extended only to those states who extend this state the same privilege.

Sec. 7. **Domestic licensees—fees.**—Applicants for license, to practice Chiropody (Podiatry) in this State, not included in Sections 4 and 6, shall file with the department an application for examination accompanied by a fee of twenty-five (\$25.00) dollars together with proof that the applicant is more than twenty-one years of age, is of good moral character and has obtained a preliminary education which is equivalent to a two years course in an accredited high school. On and after January 1, 1922, a three years course in a high school or its equivalent and on and after January 1, 1925, a four years course in a high school or its equivalent shall be required. Applicants must in addition be graduates of a legally incorporated school of Chiropody (Podiatry) acceptable to the department.

Sec. 8. **Unlawful practice—penalty.**—Any person who shall practice or attempt to practice Chiropody (Podiatry) in this State without having complied with the provisions of this division shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty (\$50.00) dollars nor more than two hundred (\$200.00) dollars or shall be imprisoned for not less than thirty (30) days nor more than ninety (90) days.

Sec. 9. **Revocation of license.**—The department may revoke any license issued for cause upon notice and hearing.

DIVISION XVII.

VENEREAL DISEASES.

Section 1. **Dangerous diseases.**—Syphilis, gonorrhea, and chancroid, hereinafter designated as venereal diseases, are hereby declared to be contagious, infectious, communicable, and dangerous to the public health.

Sec. 2. **Power of department to make rules.**—The department of public welfare is hereby empowered and it shall be its duty to make such rules and regulations as shall, in its judgment, be necessary to control and suppress venereal diseases.

Sec. 3. **Violation—penalty.**—Any person who shall violate any of the provisions of this article, or any rule or regulation made by the department of public welfare, as empowered by this article, shall be deemed guilty of a misdemeanor, and, upon conviction for each such offense shall be fined not less than fifteen dollars nor more than one hundred dollars.

DIVISION XVIII.

Section 1. **Vested rights.**—All licenses duly issued at the time of the taking effect of this article shall be and continue in full force and effect, subject to the provisions of said licenses.

TITLE VII.

DEPARTMENT OF PUBLIC WORKS.

ARTICLE I.

GENERAL POWERS.

Section 1. **Department of public works take the place of state board of irrigation, highways and drainage.**—The department of public works shall exercise the powers and perform the

duties now consigned to the State Board of Irrigation, Highways and Drainage.

Sec. 2. **State engineer.**—The department of public works shall appoint a state engineer and the state engineer acting when this act takes effect shall continue as state engineer until his successor is appointed and qualified.

Sec. 3. **Department of public works to be superintendent of construction.**—The department of public works shall supervise all of the state's building or construction work which is not vested in any other department and shall superintend the construction of highways, bridges, and other public improvements for which any money is appropriated by the state.

ARTICLE II.

STATE HIGHWAYS.

Section 1. **Highways established.**—A system of state highways is hereby established which are to be improved and maintained by the department of public works as hereinafter provided. The highways comprising said system of state highways are to be known as State Highways and are described and set forth herewith as follows:

Highway 10. Commencing at southern boundary line of Richardson County south of Falls City, running near or through Falls City, Shubert, Stella, Howe, Auburn to Nebraska City.

Highway 11. Commencing at Nebraska City, running near or through Union, Plattsmouth, Ft. Crook, Bellevue, to Omaha.

Highway 12. Commencing at Omaha, running near or through Ft. Calhoun, Blair, Herman, Tekamah, Craig, to Oakland.

Highway 13. Commencing at Hooper, running near or through Oakland, Lyons, Rosalie, Walthill, Winnebago, Homer to Dakota City to Missouri River Bridge South Sioux City.

Highway 14. Commencing at State line, south of Wymore, running near or through Wymore, Blue Springs, Beatrice, Courtland, Princeton to Lincoln.

Highway 15. Commencing at Havelock, running near or

through Ceresco, Swedeburg, Wahoo, Colon, Cedar Bluffs, to Fremont.

Highway 16. Commencing at Fremont, running near or through Hooper, Scribner, Crowell.

Highway 17. Commencing at Wisner, running near or through Altona, Wayne, Laurel, Coleridge, Hartington, Fordyce, to Missouri River, south to Yankton.

Highway 18. Commencing near Verdon on Road No. 10, running near or through Humboldt, Pawnee, Burchard, Lewiston, Virginia to Beatrice.

Highway 19. Commencing at Auburn, running near or through Johnson, Tecumseh, Vesta, Crab Orchard, Filley to Road No. 18 west to Filley.

Highway 20. Commencing at Nebraska City, running near or through Dunbar, Syracuse. Unadilla, Palmyra to Lincoln.

Highway 21. Commencing at Havelock, running near or through Waverly, Greenwood, Ashland, Melia, Gretna, Chalco, Millard to Omaha.

Highway 22. Commencing at Omaha, running near or through Elkhorn, Waterloo, Valley to Fremont.

Highway 23. Commencing at West Point, running near or through Pender, Wakefield, Allen, Martinsburg to Ponca.

Highway 24. Commencing at Road No. 11, running near or through Murray, near Murdock, Elmwood connecting with Road No. 20 near Eagle.

Highway 25. Commencing at Southern boundary of Thayer County near Chester, running near or through Stoddard, Hebron, Belvidere, Bruning, Strang, Geneva to Fairmont.

Highway 26. Commencing at Fairmont, running through York, near or through Benedict to Stromsburg.

Highway 27. Commencing at Stromsburg, running near or through Osceola, Shelby, Millerton, David City, to Schuyler.

Highway 28. Commencing at Schuyler, running near or through Richland, Columbus, Platte Center, Tarnov, Humphrey, Madison, Newman Grove to Albion.

Highway 29.—Commencing at Madison, running near or through Norfolk, Pierce, Creighton, Center to Niobrara.

Highway 30. Commencing at Beatrice, running near or through Ellis, Harbine, Jansen, Fairbury, Gilead, to Hebron.

Highway 31. Commencing at Road No. 30, north of Fairbury, running near or through Western, Wilber to Crete.

Highway 32. Commencing at Road No. 14, north of Princeton, running near or through Crete, Dorchester, Friend, Exeter to Fairmont.

Highway 33. Commencing at Lincoln, running near or through Emerald, Seward, Tamora, Utica, Waco to York.

Highway 34. Commencing at Seward, running to David City.

Highway 35. Commencing at Schuyler, running to Pilger.

Highway 36. Commencing at Blair, running near or through Kennard, Arlington, to Fremont.

Highway 37. Commencing at Norfolk, running near or through Stanton, Pilger, Wisner, West Point to Oakland.

Highway 38. Commencing at Fremont, running near or through Ames, North Bend, Roger to Schuyler.

Highway 39. Commencing at the Nebraska-Kansas State Line, south of Superior, running near or through Superior, Nelson, Clay Center, to Road No. 40, Near Harvard.

Highway 40. Commencing at Fairmont, running near or through Grafton, Sutton, Harvard to Hastings.

Highway 41. Commencing at Red Cloud, running near or through Cowles, Hastings, Doniphan, to Grand Island.

Highway 42. Commencing at York, running near or through Bradshaw, Hampton, Aurora, to Road No. 41, South of Grand Island.

Highway 43. Commencing at Grand Island, running near or through Chapman, Central City, Clarks, Silver Creek, Duncan, Columbus to Highway 27.

Highway 44. Commencing at Stromsburg, running near or through Polk to Central City.

Highway 45. Commencing on Road No. 28, West of Columbus, running near or through Genoa, Fullerton, Wolbach, Brayton, to Greeley.

Highway 46. Commencing at Genoa, running near or through Albion, Petersburg, Elgin, to Neligh.

Highway 47. Commencing at Norfolk, running near or through Battle Creek, Tilden, Oakdale, to Neligh.

Highway 48. Commencing at Greeley, running near or through Spalding, Bartlett, Sheridan, Ballagh, to Atkinson.

Highway 49. Commencing at Neligh, running through Clearwater, Ewing, Page, O'Neill, to Spencer.

Highway 50. Commencing at Niobrara, running through or near Verdel, Monowi, Lynch, Bristow, Spencer, Butte, Naper to Nebraska-South Dakota line.

Highway 51. Commencing at Greeley, running near or through Horace, Scotia, North Loup, Ord, Elyria, Burwell to Devere.

Highway 52. Commencing at Red Cloud, running near or through Inavale, Riverton, Franklin, Bloomington, Republican City, Alma, to Orleans.

Highway 53. Commencing at Hastings, running near or through Juniata, Hartwell, Minden, Axtell, Funk to Holdrege.

Highway 54. Commencing at Franklin, running near or through Upland to Minden.

Highway 55. Commencing at Alma, running to Holdrege.

Highway 56. Commencing at Holdrege, running near or through Atlanta, Oxford, Edison, to Arapahoe.

Highway 57. Commencing at Road No. 56, West of Holdrege, running near or through Loomis, Bertrand, Smithfield, Elwood, Orafino, Stockville, to Curtis.

Highway 58. Commencing at Grand Island, running near or through Wood River, Shelton, Gibbon, Kearney, Odessa, Elm Creek, Overton, to Lexington.

Highway 59. Commencing at Road No. 58, north of Wood River, running near or through Ravenna, Hazard, Litchfield, Mason City, Ansley, Berwyn, Broken Bow, Ormsby, to Merna.

Highway 60. Commencing at Kearney, running near or through Pleasanton, to Hazard.

Highway 61. Commencing at Ravenna, running near or through Rockville to Loup City.

Highway 62. Commencing at Road No. 43, north of Grand Island, running near or through St. Libory, St. Paul, Farwell, to Road No. 61, southeast of Loup City.

Highway 63. Commencing at Ansley, running near or through Sargent, Taylor to Burwell.

Highway 64. Commencing at Taylor, running near or through Harrop, to Bassett.

Highway 65. Commencing at O'Neil, running near or through Atkinson, Stuart, Bassett, Long Pine, Ainsworth, Johnston, Norden, Sparks to Valentine.

Highway 66. Commencing at Springview, and connecting with Highway No. 65.

Highway 67. Commencing at Oxford, running near or through Beaver City, Arapahoe, Holbrook, Cambridge, Bartley, Indianola, Red Willow, McCook, to Culbertson.

Highway 68. Commencing at Culbertson, running near or through Hope, Hayes Center, Rain, Strickland, Elsie, Madrid, Grant.

Highway 69. Commencing at Culbertson, running near or through Beverly, Palisade, Hamlet, Wauneta, Imperial, Chase, Lamar, to the Nebraska-Colorado State line west of Lamar.

Highway 70. Commencing at Culbertson, running near or through Trenton, Stratton, Max, Benkelman, Doane, Parks, Colfer, Haigler, Sanborn, to the Nebraska-Colorado State line.

Highway 71. Commencing at Lexington, running near or through Cozad, Willow Island, Gothenburg, to North Platte.

Highway 72. Commencing at Merna, running near or through Arnold, Gandy, Stapleton, Ringgold to Tryon.

Highway 73. Commencing at Merna, running to Dunning.

Highway 74. Commencing at Brewster, running near or through Dunning, Thedford, to Mullen.

Highway 75. Commencing at Mullen, running near or through Whitman to Hyannis.

Highway 76. Commencing at Hyannis, running near or through Lakeside, Antioch, Hoffland to Alliance.

Highway 77. Commencing at Hyannis, running near or through Cody to Merriman.

Highway 78. Commencing at Merriman, running near or through Bayonne, Gordon, Clinton, Rushville, to Hay Springs.

Highway 79. Commencing at Hay Springs, running near or through Bordeaux, Chadron, Whitney, Crawford, Harrison, west to Nebraska-Wyoming state line.

Highway 80. Commencing at Alliance, running to Chadron.

Highway 81. Beginning at Highway No. 21, running through Papillion and connecting with Highway No. 11.

Highway 82. Commencing at North Platte, running near or through Hershey, Sutherland, Roscoe, to Ogallala.

Highway 83. Commencing at Ogallala, running near or through Big Springs, Chappell, Perdue, to Sidney.

Highway 84. Commencing at Sidney, running near or through Kimball, to the Nebraska-Wyoming line.

Highway 85. Commencing at Arthur and connecting with Highway No. 82.

Highway 86. Commencing at Keystone, running near or through Lewellen, Lutherville, Oshkosh, Penn, Lytle, Lisco, to Broadwater.

Highway 87. Commencing at Broadwater, running near or through Bridgeport, Schermenhorn, Bayard, Minatare, Scottsbluff, Mitchell, Morrill, to the Nebraska-Wyoming state line.

Highway 88. Commencing at Kimball, running near or through Harrisburg, Gering to Scottsbluff.

PROVIDED, that on or before January 1, 1920, the State Engineer shall file in the office of the County Clerk of each County in the State, a map drawn to a scale of one inch to the mile, which shall indicate and show all State Highways located within such county as herein provided and the department of public works is hereby empowered to use all or any part of each county's ap-

portionment of the State Aid Road Fund to construct the State Highway System in each county. **PROVIDED FURTHER:** That when any highway in the State is constructed with State and Federal money, the department of public works shall file with the County Clerk of the county having jurisdiction over such highway, a map as herein provided for State Highways; and all highways so constructed shall become a part of the State Highway System and be maintained in the same manner as all other state highways provided for in this Article.

Sec. 2. Deviations and changes to be made by state board of irrigation and drainage.—The line or actual location of a state highway may deviate from the location of the public highway, as actually traveled at the time said highway was by law designated as a state highway, as may be deemed expedient by the department of public works in order to shorten distances, to eliminate steep grades or sharp turns, to widen or narrow or otherwise to promote public convenience and safety. Such portions of a state highway as may be abandoned, because of the change therein described, shall no longer be considered as a state highway or a portion of a state highway, but shall be abandoned as a public highway, unless on petition of the County Board of the county in which such abandoned sections may be located, to the department of public works, that the County Board desires to maintain such portion of the public highways, in which case it will be maintained as other public roads as provided by law.

Sec. 3. Relocation, alteration and widening.—Any public highway or portion of a public highway designated by law as a state highway, may be relocated, altered or widened, when in the opinion of the department of public works, such is necessary for the public convenience and safety, and for such purposes, power is hereby conferred upon the county board of the county in which the land is situated, to take, hold and appropriate so much real estate as may be necessary and convenient in the manner provided for appropriation of real estate for county buildings as prescribed by Sections 1092 to 1096, inclusive of the Revised Statutes for 1913.

Sec. 4. Improvements to be made by counties.—On and after January 1, 1920, each county shall adequately maintain the whole of the state highway system lying within the county in

accordance with the directions, specifications and regulations made for such maintenance by the department of public works. Such maintenance shall include improvements to the existing surface of said highways, to bridges, culverts and other structures thereon, as well as the erection and maintenance of suitable markers as may be deemed necessary for the convenience and safety of the traveling public. Provided, that portions of the highway lying within incorporated cities and villages having a population of more than fourteen hundred (1400) inhabitants shall be maintained solely by said city or village.

Sec. 5. Procedure when county fails to improve.—If any county shall fail to adequately maintain any portion of the state highway system within the county, the department of public works may so determine and shall notify the county clerk of said county in writing. If such county shall not within thirty (30) days of such notice take due steps to perform such maintenance, the department of public works shall immediately cause the required maintenance to be performed and the cost of same to be paid out of the State Highway Fund and charged against the amount available for maintenance of said county. To permit the department of public works to perform the duties herein imposed, it may purchase or rent all necessary machinery and equipment.

Sec. 6. Payments to county for satisfactory maintenance.—When any county shall adequately maintain, to the satisfaction of the department of public works, the portion of the state highway system within its limits there shall be paid into the county treasury, out of the State Highway Fund, the actual cost of such maintenance, plus an allowance for the use of county machinery agreed upon in advance by the County Board and the department of public works; said payments shall be made up to the amount available in the State Highway Fund for the maintenance in such county, upon the presentation by the county clerk of properly itemized voucher statements supporting the account, which statement shall be filed between the first and the fifteenth of each month and be approved by the department of public works before payment is made.

Sec. 7. Certified statements to be filed with county clerks.—On the fifteenth day of each month the department of public

works, shall file with the county clerk of each county a certified statement showing the total amount of money received, the total claims allowed and the amount of money available in the State Highway Fund for the maintenance of the State Highway System in each county.

Sec. 8. **Close highways to traffic for repairs.**—The county board shall have authority to close temporarily to traffic any portion of a state highway for the purpose of repairing or making improvements thereon and due notice shall be given to the public that a certain portion of a state highway is closed to traffic by placing at the roadside suitable signs stating that the road is closed to travel by order of the county board. It shall be unlawful for any person to remove or pass such signs without permission, and any person so doing shall be guilty of a misdemeanor and shall upon conviction be subject to a fine not exceeding one hundred (\$100.00) dollars or imprisonment not exceeding thirty (30) days, or both.

Sec. 9. **Detours.**—Wherever practicable the county board is authorized to arrange detours around the portion of a state highway, closed for repairs, as it may deem expedient for this purpose. The department shall secure a right-of-way through private land if satisfactory arrangements for temporary right-of-way can be made with the owner of the land. If the department cannot secure a right-of-way by agreement to enter upon such lands for a temporary right-of-way, similar proceedings may be had for the securing of a right-of-way on private land as herein provided by Section 3.

Sec. 10. **State highway fund—how comprised.**—The State Highway Fund shall be derived from such revenue as may by law be provided. In addition, the department of public works may accept donations from whatever source, whether public or private, made for the purpose of constructing or improving any portion of the State Highway System; provided, that the said department need not accept any such donations, whether public or private, if in its opinion the best interest of the state will not be subserved.

Sec. 11. **Same—for what purposes available.**—The State Highway Fund shall be available to pay for the cost of main-

tenance of the state highway system, all motor vehicle number plates and seals, the engineering, supervision and administration of this article by the department of public works: PROVIDED, however, that the cost of engineering, supervision and administration by the department of public works shall not exceed the actual cost of said plates and seals plus 5% of the total amount of money received in said State Highway Fund.

Sec. 12. **Emergency cash trust fund.**—For the purpose of enabling the employment and discharge of labor and the prompt payment of emergency items of less than one hundred (\$100.00) dollars value, five thousand (\$5,000.00) dollars of the State Highway Fund shall be deposited in a bank to be designated by the department of public works, to the credit of the State Engineer, as an Emergency Cash Trust Fund, against which the State Engineer may draw his official checks for the payment of small emergency claims, including labor and employment claims where the same are payable oftener than once each month. Such Emergency Cash Trust Fund shall be provided by the Secretary of the department of public works, drawing a proper voucher against the State Highway Fund and proper warrants issued therefor, which warrants shall not at any time exceed the amount actually expended from said fund, as evidenced by receipts approved by the department of public works showing the payments made from said fund, the proceeds of which shall be deposited in the designated bank to the credit of the State Engineer, and for the purpose as aforesaid. Additional vouchers and warrants shall be drawn and issued, from time to time, to keep the said fund to the amount of Five Thousand (\$5,000.00) dollars as nearly as practicable: PROVIDED, that before any checks are drawn on said Emergency Cash Trust Fund, the State Engineer shall file an approved surety bond with the department of public works in the sum of Ten Thousand (\$10,000.00) dollars, for the faithful performance of his duties under this article.

Sec. 13. **Project district.**—The department of public works shall divide the state into project districts, not exceeding five counties in any one district, in such a manner as in its judgment will best utilize the State Aid Road Fund available each year as well as the money apportioned to the state from the Federal Government under the Federal Aid Road Act of July 11, 1916.

Before submitting any project statement to the Secretary of Agriculture, as provided for in the Federal Aid Road Act, the same shall have received the approval of the county board of each county within the project district. The funds available for all of the counties in each project district shall be considered as a unit for such district, and the work of construction or improvement of roads for each district shall be begun in any part or parts of such district at the place or places designated by the department of public works. Whenever the work in any project district is completed, the amount of the funds apportioned to each county shall have been expended in the construction or improvement of roads and bridges within said county, or in the event that all of the apportionment for each county is not used in the construction or improvement of the roads utilized in the project district plans for such county, the unused funds shall be used in the construction or in the improvement of such other roads within the county as the county board and the department of public works may agree upon and which receives the approval of the Secretary of Agriculture.

Sec. 14. Unlawful motor vehicles on highways—penalty.—

No motor vehicle in excess of seven and one-half ($7\frac{1}{2}$) feet in width, or twelve (12) feet in height shall be operated on the system of state highways; nor shall any motor vehicle be so operated in which the limit of load per inch width of tire exceeds six hundred (600) pounds. No motor vehicle of which the weight of truck and load combined exceed seven thousand (7000) pounds on any one wheel shall be operated on the system of state highways without the special permission of the department of public works.

Any person violating any of the provisions of this Section shall be deemed guilty of a misdemeanor and subject to a fine of not less than Fifty (\$50.00) dollars, nor more than Five Hundred (\$500.00) Dollars for each offense.

Sec. 15. Rules and regulations for use of highways to be made by department.—In order to promote public safety and to preserve and protect state highways and prevent immoderate and destructive use of the same, the department of public works may formulate such rules and regulations in regard to the use of and travel upon the state highways, not inconsistent with the

provisions of this article, as said department may deem proper. Such rules and regulations shall be published and issued in pamphlet form by said department and designated as the official state highway rules and regulations of the department of public works, and shall be available upon request to the general public free of charge.

Sec. 16. Careless operation of motor vehicle—penalty.—Any person or persons who shall operate a vehicle upon a state highway in such a manner as to endanger the safety of others or to cause immoderate wear or damage to a state highway shall, upon conviction, be deemed guilty of a misdemeanor and be subject to a fine not to exceed One Hundred (\$100.00) Dollars nor less than Twenty-five (\$25.00) Dollars, or imprisonment in the county jail for thirty days, or both fine and imprisonment, at the discretion of the court, and shall be held prima facie evidence that a person has operated a vehicle over a state highway in a manner to endanger the safety of others or so as to cause immoderate use or damage to a state highway, if he has operated such vehicle in a manner contrary to the duly published rules and regulations of the department of public works governing the use of state highways.

Sec. 17. Advertising signs on state highways—permit required.—No advertising signs shall be placed along or upon a state highway without a written permit from the department of public works. Permits to be issued shall be numbered serially and each sign shall bear upon it the permit number thus: State Permit No..... The department of public works is authorized to remove all advertising signs for which permits have not been duly obtained, and is authorized to charge a fee for such permits, such fee to be not less than twenty-five (25c) cents, nor to exceed five (\$5.00) dollars for each individual sign. The department of public works may, without stating any cause, revoke the permit for any sign along a state highway and remove the same, provided if the sign so removed shall have been erected less than three (3) months at the time of such removal, the amount of the permit fee shall be returned to the owner of the sign. PROVIDED, no permit shall be issued for any sign or more than ten (10) square feet surface; provided, further, printed

sale bills shall not be deemed a sign within the meaning of this section.

Sec. 18. Road materials—how purchased—condemnation.—

For the purpose of obtaining road materials to be used in the construction and maintenance of state highways built or maintained under the supervision of the department of public works, said department is hereby empowered, on behalf of the state, to acquire lands and appurtenances thereto, either by purchase or by condemnation proceedings, in the manner provided by law. Said department may also purchase all necessary equipment and employ the necessary labor to remove such materials from said land; to prepare such materials for use and to manufacture such materials into road making products, and may sell any surplus of such materials or products to any county or counties, or to any municipality of the state or to any contractor at actual cost for building and maintaining roads, streets and alleys only; and the funds received therefor shall be, by said department, paid into the state treasury and credited to the State Aid Road Fund. The cost of acquiring said lands and appurtenances, the purchasing of equipment, and the use of such equipment as provided for in this section shall be paid out of the State Aid Road Fund. For the purposes provided in this section, said department may enter into contract with the board of commissioners of state institutions, for the employment of convict labor.

ARTICLE III.

STATE AID BRIDGES.

Section 1. General supervision.—The department of public works is hereby declared to have supervision of bridges to be located and constructed or purchased under state aid, as provided by law.

Sec. 2. (2977) County board apply for aid.—The county board of any county may make application, in writing, to the department of public works for state aid in the construction of any bridge, or for such aid in the purchase of any private bridge already constructed across any stream, of the width of one hundred seventy-five feet or more, under the jurisdiction of such county board or boards. The application shall contain a descrip-

tion of the proposed bridge, with a preliminary estimate of cost of construction or purchase thereof, and a certified copy of the resolution of said board pledging such county to furnish one-half of the cost of construction of such bridge. The state shall not be liable for any money in excess of the appropriation made for that purpose. If the application is for the purchase of a private bridge already built the county board or boards acting jointly with the department of public works shall submit and negotiate offers to purchase to the owners of such bridge. If a reasonable sum is agreed upon the said department, the board, and the owners of the bridge may enter into a contract for such purchase. If terms cannot be agreed upon, the county board, together with the department of public works may appropriate the said bridge for public use by the exercise of the power of eminent domain. If the bridge proposed to be purchased shall extend into two or more counties the condemnation proceedings may be instituted in either of said counties.

If more than one county is concerned in the purchase or construction of such bridge each of said counties shall bear its proportionate share of the cost and expense thereof, and either county may vote and issue bridge bonds therefor.

Sec. 3. (2978) Same—order on department for construction.—The department of public works shall, on the first Monday of January, April, July and October of each year, consider such applications, and upon recommendation of the secretary, make an order for a grant of one-half of the cost of construction of any such bridge or bridges as shall be designated.

Sec. 4. (2979) Contracts—notice—bids.—Before any contract shall be let as aforesaid, the county board having jurisdiction, together with the department of public works, shall cause a notice calling for bids to be published for four consecutive weeks, in a newspaper, which notice shall state the general character of the work, the number and kind of bridges to be built, their proposed location, the time within which, and the place for filing and opening such bids. No bid shall be considered unless accompanied by a certified check or cash, equal to five per cent of the bid payable to the county clerk of the county with whom the bids are filed, to be forfeited to the state and

county in proportion to the interest of each, in case the bidder refuses to enter into any contract.

Sec. 5. (2980) **Contracts—how let.**—All contracts for the erection and construction of such bridge or bridges, and for furnishing the materials in connection with the same, shall be let to the lowest responsible bidder. All bids must be deposited with the county clerk of the county making such application, or, if more than one county, bids shall be deposited with the county clerk of the county first named in the application. Bids shall be opened by the county clerk in the presence of the county boards having jurisdiction and the department of public works. The department of public works may be represented at any of the transactions named in this section by the state engineer upon his being duly authorized to act in such capacity by the department.

Sec. 6. (2981) **Bridge plans—disputes.**—The plans and specifications of the proposed bridge or bridges shall be furnished by the state engineer, and construction shall be under the joint supervision of the department of public works, and the county board, and when completed shall be accepted by the department of public works and the county board before final payment therefor. In all cases of disagreement in regard to the location of a bridge, where more than one county is concerned, each county shall be entitled to one vote upon the matter in dispute, and the department of public works shall be entitled to one vote, which shall be cast by the state engineer, and a majority of all votes thus defined shall determine the matter in controversy.

Sec. 7. (Sec. 3, Ch. 57, Laws 1915) **Bridges—maintenance—cost—inspection.**—After the completion or purchase of said bridge or bridges and the acceptance thereof by the department of public works, the county or counties having jurisdiction thereof shall bear the cost of maintenance where it is not over one hundred dollars per year; and in case it exceeds one hundred dollars per year, such cost shall be borne equally by the state and the county or counties. The department of public works shall make an annual inspection of each of the bridges built under this article and shall recommend to the county board or boards the necessary repairs, which repairs shall be made by

the county board or boards under the direction of the department of public works.

Sec. 8. (Sec. 4, Ch. 57, Laws 1915)—**Physical valuation by railway commission.**—No bridge shall be purchased as herein provided unless a physical valuation of such bridge be made by the State Railway Commissioners.

ARTICLE IV.

MOTOR VEHICLES.

Section 1. (2043) **Definition of terms.**—The words and phrases used in this article shall, for the purpose of the same only, be construed as follows: “Motor Vehicles” shall include motor cycles and all vehicles propelled by any power, other than muscular power, excepting however, traction engines, road rollers and any vehicles which run only on rails or tracks. “Highways” shall include public streets, roads, turnpikes, parks, parkways, drives, alleys, and other public ways used for the passage of road vehicles. “Trucks” shall include motor vehicles equipped or used to carry anything other than passengers.

Sec. 2. **Application for registration—counties.**—Every owner of a motor vehicle which shall be operated or driven upon the public highways, shall, for each motor vehicle owned, except as herein otherwise expressly provided, cause to be filed by mail or otherwise with the department of public works, an application for registration on a blank to be furnished by the department of public works for that purpose containing, in addition to such other particulars as may be required by the department of public works, a statement of the name and postoffice address of the applicant, a description of the motor vehicle, including the name of the maker, the number, if any, affixed to the motor or engine by the maker, the character of the motive power, the diameter of the cylinder bore and the number of cylinders, the seating capacity, the published weight of vehicle, the year model or letter denoted by the manufacturers, if any; and with such application the applicant shall deposit the proper registration fee receipt as provided in section 15 of this article.

Sec. 3. **Registration.**—The department of public works shall

alphabetically and also numerically register such motor vehicle with the name and postoffice address of the owner, together with the facts stated in such application, in a book or on index cards to be kept for the purchase, under a distinctive number assigned to such motor vehicle, which book or index cards shall be open to inspection to the public during reasonable business hours.

Sec. 4. **Record of registration.**—The department of public works shall keep a record of the cars registered, of each make or kind, both numerically and according to the engine number, with cross reference in each instance to the registration number assigned to such motor vehicle.

Sec. 5. **Numbering.**—Upon the filing of such application and the registration fee receipt provided in this article, the department of public works, shall, upon registration, assign to such motor vehicle a distinctive registration number. Such number so assigned shall be the number assigned to such motor vehicle at each succeeding registration thereof, so long as such motor vehicle shall be owned by the owner to whom the original assignment was made, and upon sale or transfer of any such motor vehicle, said number may be cancelled or may be re-assigned as an original assignment, to the same or another motor vehicle, at the option of the department of public works subject to the provisions hereinafter contained.

Sec. 6. **Renewal of registration.**—Such registration may be renewed annually in the same manner and upon payment of the same fee as provided for the original registration, such renewal to take effect on the first day of January, each year. The seal and certificates of registration furnished by the department of public works, as provided hereinafter, shall be valid during the calendar year only, in which they are furnished or issued.

Sec. 7. **Number plates furnished—specifications.**—The department of public works shall furnish to every person whose motor vehicle shall be registered as aforesaid, on original registration, one number plate, upon which shall be displayed the registration number assigned to such motor vehicle, in figures not less than four inches in height. The letters and figures for motor cycle plates may be one-half the size of those required herein for motor vehicles, and shall have space provided thereon,

to which may be attached each year, the registration seal to be furnished by the department of public works, as hereinafter provided; PROVIDED, however, on number plates issued to a manufacturer or dealer there shall be displayed, in addition to the registration number, the letter "D" and on number plates issued for trucks, trailers, or motor vehicles carrying more than seven passengers there shall be displayed, in addition to the registration number, the letter "T", said letters to be the same height as the figures of the registration number.

Sec. 8. **Registration seals furnished.**—The department of public works shall furnish with each number plate, and at each annual renewal of registration, a registration seal, together with screws or other means of attachment to the number plate, the form and character of which seal shall be uniform for any one calendar year, such seal to be changed by the department of public works, as to color each year, and to be not less than four inches square and have displayed thereon the letters "N E B", and the figures of the calendar year in which the seal is issued.

Sec. 9. **Certificate of registration furnished.**—The department of public works shall furnish with each number plate, and on each annual renewal by registration, a certificate of registration which shall contain upon the face thereof, the following data. The name of the registered owner of the motor vehicle, his postoffice address, and a description of the vehicle as set forth in the application for registration. Such certificate shall contain a blank space for the signature of the registered owner. The reverse side of such certificate shall contain forms, First, for a notice to the department of public works, by the registered owner, in case of transfer of ownership, as hereinafter required; and, Second, for application to the department of public works, by the transferee, in case of transfer of said motor vehicle, for registration thereof in his name, said application to be in the form of a joint statement, to be signed by both transferor and transferee, and to contain, in addition to such other particulars as may be required by the department of public works, a statement of the postoffice address of the transferee so applying for registration. Such certificate shall contain the identical registration number denoted on the number plate, in connection with which such cer-

tificate shall be issued, and it shall be valid only for the calendar year in which it is issued.

Sec. 10. Certificate—how enclosed and installed on vehicle.—Said certificate shall be inclosed in a suitable container, to be furnished by the department of public works, said container to have a frame of aluminum or other material and to have a case of isinglass or other transparent material through which said certificate can be easily inspected, and with such container the department of public works shall furnish screws or other suitable means of attachment to the motor vehicle. Said number plates, seals, certificates and containers shall be furnished by the department of public works, without further charge than the fees specified in Section 15 of this article, with transportation prepaid, and shall be of substantial character and of suitable form and design to be determined by the department of public works.

Sec. 11. Registration—how affected by transfer of ownership.—Upon the transfer of ownership of any motor vehicle, its registration shall expire, and the person in whose name such vehicle is registered, and the person to whom ownership of such vehicle is to be transferred, shall forthwith join in a statement of said transfer, indorsed upon the reverse side of the certificate of registration of said motor vehicle, in the space provided for said purpose, which statement shall be signed by the transferor in the manner and form of his signature, contained on the face of said certificate, and which statement shall likewise be signed by the transferee, who shall also set forth, below his signature, his postoffice address. Said statement shall include an application by the transferee and registration of said vehicle in his name. Said certificate so indorsed and bearing upon the reverse side thereof the signatures of the transferor and transferee, shall be forwarded by the transferee to the department of public works together with a receipt for the proper fee for registration required in Section 15 of this article, and the registration number plate, transportation prepaid, to the department of public works. The department of public works shall file said certificate, so jointly indorsed by transferor and transferee, and upon receipt of the proper receipt fee, as above provided, the department of public works, if satisfied of the genuineness and regularity of said transfer, shall register said motor vehicle in the name of said

transferee, and shall cancel the former registration number or assign the same to the same or another motor vehicle, at the option of the department of public works, subject to the other provisions of this article.

Sec. 12. Assignment of registration to replacement motor vehicles.—In case of such transfer of ownership of any motor vehicle, or in case of loss of possession thereof, the registered owner, provided he applies to the department within ten days after such transfer or loss of possession, may have assigned to another motor vehicle the registration number of the motor vehicle so transferred or lost; Provided, that in such case of transfer and application for reassignment to another motor vehicle the number plates and seal may be retained for a period of ten days after such transfer, and if application for such reassignment shall have been made within said period they may be further retained until the department of public works has either duly reassigned said number in accordance with said application or has refused said application for reassignment, and has cancelled said number and demanded surrender of said plates and seal. **PROVIDED FURTHER**, that in case of transfer of motor vehicle within a period of ninety days from the time of payment of fee as provided in Section 15, the transferor may by returning the registration certificate, the number plate and seal and upon application receive a refund of one-half the amount of such fee.

Sec. 13. Registration certificate for replacement motor vehicles.—Upon such registration the department of public works shall issue and forward to the applicant, without further charge than is provided in Section 15 of this act, a new registration certificate, in the manner and form as hereinbefore provided for original registration. Until said transferee has received said certificate of registration, and has written his name upon the face thereof, in the blank space provided for said purpose by the department of public works, delivery of said motor vehicle shall be deemed not to have been made, and title thereto shall be deemed not to have passed and said intended transfer shall be deemed to be incomplete and not to be valid or effective for any purpose. **PROVIDED**, that where such transfer is made to a manufacturer or dealer, who has complied with the provisions of this act, and who intends to re-sell or otherwise re-transfer

said vehicle, a certificate of registration shall be furnished without charge to him; whereupon such manufacturer or dealer shall be entitled to display upon such vehicle, number plate and seal, assigned to him by the department of public works, but upon sale or transfer of said vehicle by such manufacturer or dealers, each and every provision herein contained, relative to the return of such certificate to said department of public works with the joint statement of transferor and transferee endorsed thereon as well as other provisions applicable upon transfer of motor vehicles, shall be complied with. In case of a transfer of a motor vehicle to such manufacturer or dealer, without the removal therefrom by the transferor of the number plate and seal, the manufacturer or dealer shall forthwith deliver to the department of public works, transportation prepaid, said number plate and seal.

Sec. 14. Notice of transfer by operation of law.—In case of transfer of ownership of a motor vehicle, registered under the provisions of this act, by operation of law, as upon inheritance, devise or bequest, order in bankruptcy, or insolvency, execution sale, re-possession upon default in performance of the terms of a lease or executory sales contract, or otherwise than by the voluntary act of the registered owner, the notice of transfer, as well as the joint statement hereinabove provided for, shall be signed by the executor, administrator, receiver, trustee, sheriff, or other representative or successor in interest of the registered owner in lieu of such owner, and the transferee's application for registration shall be accompanied by a statement of the special facts in the premises: Provided, that the department of public works may in its discretion require from the transferee, before registering such motor vehicle, such additional information respecting such involuntary loss of ownership by the former registered owner as may be satisfactory to said department of public works.

Sec. 15. Registration fees.—The following fee shall be paid upon the registration of each motor vehicle, in accordance with the provisions of this act, and the receipt therefor shall accompany the application hereinbefore provided for; for the registration of every motor cycle and every two wheel truck weighing less than one thousand pounds \$5.00; for the registration of each motor vehicle a minimum of \$10.00 and 50 cents additional for

each 100 pounds in weight of such cars, in excess of 2000 pounds: PROVIDED, for trucks, and for cars equipped to carry more than seven passengers, the amount of fee shall be based upon the weight of such trucks and cars when loaded to capacity, and in estimating the capacity of cars carrying more than seven passengers, the weight of each passenger shall be taken to be 150 pounds. The registration fees herein provided for shall be deemed an annual occupation tax: PROVIDED, no registration fee shall be charged for any motor vehicle owned by any city, or village of this state, for the use of the Police, Fire or other Departments, nor for any motor vehicle owned and used by any school district, county, state or the United States Government. PROVIDED, FURTHER, that the official registration year shall extend in each case from January 1st to December 31st, inclusive, of the calendar year in which registration is had, but if payment of said registration fee is paid after July 1st for registration of the balance of said year the fee shall be one-half of the annual fee provided in this section.

Sec. 16. **Same—payment and disposition.**—All registration fees provided for in this article shall be paid to the County Treasurer of the County in which the applicant for registration resides, and such treasurer shall credit twenty-five (25%) per centum of all fees so paid to the road dragging fund of the county and it shall be used by the County Board of said County for road dragging, and equipment for road dragging, for strawing, claying or stable littering the roads and for no other purpose. The County Treasurer shall immediately transmit the remaining sum of any registration fees so collected by him to the State Treasurer to be placed in a fund to be known as the "State Highway Fund," and all money remaining in the motor vehicle fund on March 31, 1919, and all money paid into said fund after March 31, 1919, shall be immediately transferred to the state highway Fund. The State Treasurer and State Auditor shall each keep in his books, a separate account with each county showing the amount received and the amount expended therefrom under this act.

Sec. 17. **Same—duty of county treasurers.**—The County Treasurer shall issue receipts for all fees received under this act in duplicate to the applicant for registration, one copy of such receipt to be retained by the applicant and the other to be for-

warded to the department of public works, as provided in this article. It shall be the duty of the County Treasurers to keep a record of all motor vehicle owners in their respective counties. It shall be the duty of the county treasurer to send notices to the owners of motor vehicles of the time of the expiration of their paid registration period and the fact that they may lose their registration number if not renewed. Said notice shall be sent not more than ten days before the expiration of such period.

Sec. 18. State highway fund appropriation—how expended.—Said State Highway Fund shall be used on the State Highway System in such manner that each County shall receive the benefit of all money paid into said fund from such County; and there is hereby appropriated to be expended as provided by law under the direction of the department of public works, for and during the biennium, ending March 31, 1921, all the money now in the State Highway Fund or that may come into said fund at any time during the said biennium and immediately upon the taking effect of this Article, the Secretary of State shall transfer to the department of public works, all records, books, blanks, reports, motor vehicle numbers, and all other appurtenances and property pertaining to motor vehicles.

Sec. 19. Registration by manufacturers or dealers in motor vehicles.—Each manufacturer of, or dealer in, motor vehicles, doing business in this state, may register one motor vehicle of each class manufactured by or dealt in by him, and if a number, to be furnished by the department of public works, corresponding to the registration number issued to such manufacturer or dealer, is displayed, as provided in Section 22, of this act, on every vehicle in the class for which it is issued, while such vehicle is being operated on the highways by such manufacturer or dealer, or his agents or representative, it shall be deemed a sufficient compliance with this article. PROVIDED, that duplicate numbers may be secured at a charge of \$1.00 each. PROVIDED, HOWEVER, that the purchaser of a new motor vehicle may act as the agent of the dealer from whom such vehicle was purchased and carry such dealer's registration number for a period not exceeding ten days; and Provided Further, nothing in this Section shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for his private use or for hire.

Sec. 20. **Same—classification for registration purposes.**—In construing the provisions of the last preceding section, electrically driven motor vehicles shall constitute a class, those propelled by steam, a class; those propelled by gasoline explosive type engines, a class, and those trucks or cars having a carrying capacity of more than 4,000 pounds a class; PROVIDED, such manufacturer or dealer shall comply in all other respects with the provisions of this article.

Sec. 21. **Same—separate registrations required for branches or sub-agencies.**—Whenever a manufacturer or dealer shall maintain a branch or sub-agency, he shall apply for a separate registration for such branch or sub-agency, and shall pay therefor the fees provided in Section 15 of this article, for the registration of motor vehicles owned by, or under the control of, a manufacturer or dealer, and the determination of the department of public works upon the question whether any establishment constitutes a branch or sub-agency, within the intent of this article, shall be conclusive. PROVIDED FURTHER, that no manufacturer or dealer or any employee of such manufacturer or dealer, shall cause or permit the display or other use of any number-plates, seal or certificates of registration, which may have been issued to such manufacturer or dealer, hereinbefore provided for, excepting upon motor vehicles owned by such manufacturer or dealer within the meaning and intent of this act.

Sec. 22. **Unlawful to operate motor vehicle without plate attached.**—Except as in this act otherwise provided, no person shall operate or drive, or cause to be operated or driven, a motor vehicle on the public highways, unless such vehicle shall at all times have displayed the number plate on the back thereof, furnished for it as hereinbefore provided, together with registration seal furnished by the department of public works, and said registration seal shall be securely attached to the number plate in the space provided thereon for that purpose; in all cases such number plate shall be securely fastened to the motor vehicle so as to prevent such plate from swinging, and at a minimum distance of 16 inches from the ground. No person shall attach to or display on such motor vehicle, any number plate or registration seal or certificate, other than as assigned to it for the current year, or a fictitious or altered number plate, seal or registration certi-

ficatc, or a number plate, or registration certificate that shall have been canceled by the department of public works.

Sec. 23. Identification marks to be kept clear and distinct—duplicates.—All letters, numbers, seals, printing, writing and other identification marks, upon such plate, seal, and certificate, shall be kept clear and distinct and free from grease, dust or other blurring matter, so that they shall be plainly visible at all times during daylight and under artificial light in the night time: PROVIDED that in case any such plate, seal or certificate of registration shall be lost, mutilated, or shall have become illegible, the person to whom such plate, seal and certificate shall have been furnished, shall immediately apply to the department of public works for a duplicate thereof, accompanying his application with a fee of \$1.00.

Sec. 24. Unlawful to operate motor vehicles without registration.—No person shall operate or drive a motor vehicle on the public highways unless such vehicle shall at all times carry in or upon it, subject to inspection by any peace officer, the registration certificate furnished for it as hereinbefore provided, which in the case of an automobile shall be fixed in the container furnished by the department of public works, in plain sight in the driver's compartment of the automobile, and which in case of a motor cycle shall be carried either in plain sight, affixed to said motor cycle, or in the tool bag or some convenient receptacle attached to said motor cycle.

Sec. 25. County treasurers to be agents for registration purposes.—The department of public works, shall designate and appoint the Treasurers of the various counties to be agents of the said Board in such counties, for the purpose of registering motor vehicles, and for the granting of licenses to applicants, subject to the requirements of this article, and in accordance with such rules and regulations as shall be imposed by the department of public works: PROVIDED, upon the transfer of ownership of any motor vehicle the title thereto shall not pass until the certificate of registration properly executed by the transferor and by the transferee, shall be filed in the department of public works as required in this act.

Sec. 26. Power of local authorities to regulate use and opera-

tion of motor vehicles.—Nothing contained in the provisions of this act shall be construed to limit the power of local authorities to make, enforce and maintain any ordinances, rules or regulations, in addition to the provisions affecting motor vehicles.

Sec. 27. Minor under sixteen or intoxicated person—not operate.—It shall be unlawful for any person under sixteen years of age, or for any intoxicated person to operate a motor vehicle, and any owner, dealer, or manufacturer of motor vehicles who permits a person under sixteen years of age or any intoxicated person to operate a motor vehicle shall be deemed guilty of a misdemeanor and shall be punished as hereinafter provided for violation of the provisions of this article.

Sec. 28. Speed rate.—No person shall operate a motor vehicle on any highway outside of a city or village at a rate of speed greater than is reasonable and proper, having regard for the traffic and use of the road and the condition of the road, nor at a rate of speed such as to endanger the life or limb of any person, nor in any case at a rate of speed exceeding thirty-five miles per hour; and within any city or village no motor vehicle shall be operated at a rate of speed greater than is reasonable and proper, having regard of the traffic and use of the road and the condition of the road, nor at a rate of speed such as to endanger the life or limb of any person. Upon approaching an intersection of highways or a bridge, or a sharp curve, or a steep descent, or another vehicle, or an animal, or person, outside of any village or city, the person operating a motor vehicle shall reduce the speed of such vehicle to a rate not exceeding fifteen miles an hour and shall not exceed such speed until entirely past such intersection, bridge, curve, descent, vehicle, animal, or person. Upon approaching any place where passengers are getting on or off street cars every person operating a motor vehicle shall bring such vehicle to a full stop and shall not again start until said street cars have started. Provided, in cities or villages where provisions shall have been made by ordinance for safety zones where street cars stop, and when such zones are distinctly marked on the street, persons operating motor vehicles may pass outside such safety zones without stopping; and Provided further, the speed limit in this section shall not apply to physicians, or sur-

geons, or police, or fire vehicles, or ambulances when answering emergency calls demanding excessive speed.

Sec. 29. **Stop and aid driver of horse.**—Any person operating a motor vehicle shall at request, or on signal by putting up the hand from a person riding or driving a restive horse or other draught or domestic animal, bring such motor vehicle immediately to a stop, and if traveling in the opposite direction remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction use reasonable caution in passing such horse, or animals; and the operator or occupant of any motor vehicle shall render necessary assistance to the party having in charge such horse, or other draught animal in so passing. Whenever any person traveling with any vehicle or conveyance on any road in this state shall overtake another vehicle or conveyance traveling in the same direction and shall by sound or call indicate to the driver thereof his or her desire to pass, it shall be the duty of the driver of the vehicle or conveyance in front, if the nature of the ground or the condition of his load will permit, to promptly turn to the right of the center of the road, and the driver of the vehicle or conveyance behind shall then turn to the left of the center of the road and pass without interfering or interrupting, and the driver of said vehicle or conveyance passing shall not return to the center of the road until at least thirty feet ahead of the vehicle or conveyance passed.

Sec. 30. **Collision—duty of persons causing.**—Whenever an automobile, motorcycle, or other motor vehicle regardless of the power by which the same may be drawn or propelled, strikes any person, or collides with a vehicle containing a person, the driver of, and all persons in such automobile, motorcycle or other motor vehicle, who have or assume authority over such driver, shall immediately cause such automobile, motorcycle, or other motor vehicle, to stop and shall render to the person, or to the occupants of the vehicle collided with, all necessary assistance, including the carrying of such persons or occupant to a physician or surgeon or hospital for medical or surgical treatment if such treatment is required, or if such carrying is requested by the person struck, or any occupant of the vehicle struck, and such driver and person having or assuming authority over such driver, shall further give to the occupants of such vehicle or person struck

the number of such automobile, motorcycle or other motor vehicle, also the name of the owner thereof and the names of the passengers or occupants in such automobile, motorcycle or other motor vehicle at the time of such striking or collision.

Sec. 31. **Have good brakes and lights.**—Every motor vehicle while in use on public highways shall be provided with good and sufficient brakes and also with a suitable bell, horn or other signal, and shall have exhibited during the period from one hour after sunset to one hour before sunrise one or more lamps showing white lights visible within a reasonable distance from the direction in which such vehicle is proceeding, and a red light visible from the reverse direction; provided further it shall be unlawful to use on a vehicle of any kind operated on the public highways of this state any lighting device of over four candle-power equipped with a reflector, unless the same be so designed, deflected, or arranged that no portion of the beam of reflected light, when measured 75 feet or more ahead of the lamps, shall rise above 42 inches from the level surface on which the vehicle stands under all conditions of the load. Spot lights shall not be used except when projecting their rays directly on the ground and at a distance not exceeding 30 feet in front of the vehicle.

Sec. 32. **Violation—penalty.**—The violation of any of the provisions of this article shall be deemed a misdemeanor punishable by a fine of not exceeding fifty dollars for the first offense, and punishable by a fine of not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding sixty days in the county jail for each subsequent offense, or both fine and imprisonment; PROVIDED, however, if any person operating a motor vehicle in violation of the provisions of this article shall by so doing seriously, maim or disfigure any person, or cause the death of any person or persons, he shall upon conviction thereof be fined not less than two hundred dollars nor more than five hundred dollars, or be imprisoned in the penitentiary for not less than one year or more than ten years.

Sec. 33. **Exceptions.**—The provisions of this article so far as they relate to registration and fees shall not apply to motor vehicles registered prior to the taking effect of this article for the year 1919, except upon the transfer of ownership of such

motor vehicle or motor vehicles, owned and operated, for a period not exceeding thirty days at a time, by non-residents of this state: PROVIDED, the owners thereof have complied with any law requiring the registration of owners of motor vehicles in the state, territory or federal districts of their residence; and provided the registration number and the initials of such state, territory, or federal district shall be displayed on such vehicles substantially as provided in this act.

Sec. 34. **Publication of certificates of registration.**—The department shall publish in pamphlet form, the second week in each calendar month in each year a complete list of all certificates of registration of motor vehicles issued during the prior month, showing the addresses of owners of motor vehicles with manufacturers name of motor vehicle abbreviated, the registration number assigned and any other information the department may deem of public interest. The first pamphlet of certificates of registration published in the year 1919 shall include all certificates of registration issued during the previous months in said year. Copies of such pamphlet shall be furnished free of charge to county attorneys, sheriffs, constables and police officers in any incorporated city or village applying therefor. Other copies shall be furnished on application at a price of ten (\$10.00) dollars per year, provided that the original list furnished to others than public officials shall be furnished at a price of twenty-five (\$25.00) dollars per copy.

ARTICLE V.

IRRIGATION AND WATER POWER.

DIVISION 1.

GENERAL PROVISIONS.

Section 1. (3369) **Water for irrigation natural want.**—Water for the purposes of irrigation in the state of Nebraska, is hereby declared to be a natural want.

Sec. 2. (3370) **Dedication of water to public use.**—The water of every natural stream not heretofore appropriated within the State of Nebraska is hereby declared to be the property

of the public, and is dedicated to the use of the people of the state, subject to appropriation as herein provided.

Sec. 3. (3371) **First in right.**—As between appropriators, the one first in time is first in right.

Sec. 4. (3372) **Use of waters—priority.**—The right to divert unappropriated waters of every natural stream for beneficial use shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purposes, but when the waters of any natural stream are not sufficient for the use of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming it for any other purpose, and those using the water for agricultural purposes shall have the preference over those using the same for manufacturing purposes.

Sec. 5. (3373) **Date of priority.**—The priority of such appropriation shall date from the filing of the application in the office of the department of public works.

Sec. 6. (3374) **Existing rights.**—Nothing in this article contained shall be so construed as to interfere with or impair the rights to water appropriated and acquired prior to the fourth day of April, 1895.

Sec. 7. (3375) **“Irrigation canal” defined.**—Any canal constructed for the purpose of developing water power, or any other useful purpose, and from which water can be taken for irrigation, is hereby declared to be an “irrigation canal” and all laws relating to irrigation canals shall be deemed applicable thereto.

Sec. 8. (3376) **Water to be returned to stream.**—The water appropriated from a river or stream shall not be turned or permitted to run into the waters of channel of any other river or stream than that from which it is taken or appropriated, unless such stream exceeds in width one hundred feet, in which event not more than seventy-five per cent. of the regular flow shall be taken.

Sec. 9. (3377) **No land burdened with more than one ditch.**—No tract of land shall be crossed by more than one ditch, canal or lateral without the written consent and agreement of the own-

ers thereof, if the first ditch, canal, or lateral can be made to answer the purpose for which the second is desired or intended.

Sec. 10. **(3378) Water divisions.**—The state of Nebraska is hereby divided into two water divisions, denominated water division No. 1 and water division No. 2 respectively.

Sec. 11. **(3379) Boundaries of division No. 1.**—Water division No. 1 shall consist of all the lands of the state drained by the Platte rivers and their tributaries lying west of the mouth of the Loup River; and also all other lands lying south of the Platte and South Platte rivers that may be watered from other superficial or subterranean streams not tributary to the Platte river.

Sec. 12. **(3380) Boundaries of division No. 2.**—Water division No. 2 shall consist of all lands that may be watered from the Loup, White, Niobrara and Elkhorn rivers and their tributaries, and all other lands of the state not included in any other water division.

Sec. 13. **(3381) Irrigation works—common carriers.**—Irrigation works, constructed under the laws of this state, are hereby declared to be common carriers.

Sec. 14. **(3382) Irrigation works—control.**—The state railway commission shall have the power and it shall be the duty of such commission to regulate the rates, service and general control of all irrigation works constructed and operated under the laws of the state of Nebraska except the work of irrigation districts.

Sec. 15. **(3383) Rates.**—The owner and operator of any such works for the storage, carriage or diversion of waters, except irrigation districts, must deliver all waters legally appropriated to the persons entitled to the use of the water for beneficial purposes at reasonable rates to be regulated by the state railway commission and shall conduct and manage said works for the storage, carriage or diversion of waters for said appropriators, under such rules and regulations as shall be prescribed by the state railway commission for such service and control of such irrigation works.

Sec. 16. **(3384) Irrigation works—repair.**—Every person

managing, owning or controlling any irrigation works for the storage, carriage or diversion of water, except irrigation districts, shall keep its headgates, diversion dams, canals and laterals in reasonable and proper repair for the delivery and diversion of water to the appropriators under its canal, and the regulation thereof shall be under the control and direction of the state railway commission.

Sec. 17. **(3385) Penalty.**—The penalties provided for the violation of the rules, regulations and orders of the state railway commission in matters relating to common carriers, shall be in force as the rules and regulations with reference to this article.

DIVISION 2.

GENERAL POWERS.

Section 1. **Department of public works to replace state board of irrigation, highways and drainage.**—The department of public works shall exercise the powers and perform the duties now assigned to the state board of irrigation, highways and drainage.

Sec. 2. **Reports of department.**—The department of public works shall prepare and render to the governor, biennially, and oftener if required, full and true reports of the work of the department of public works touching all of the matters and duties devolving upon said department of public works by virtue of its office, which report shall be delivered to the governor on or before the 30th day of November of the year preceding the regular sessions of the legislature. Three thousand of said reports shall be printed and distributed according to the provisions of law governing the printing of other state reports.

Sec. 3. **Division superintendents.**—There shall be one superintendent for each water division by this article created, who shall be appointed by the department of public works and who shall hold his office for two years or until his successor is appointed and shall have entered upon the duties of his office, and who shall reside in the water division for which he is appointed. The state superintendent of each water division acting for the department of public works shall have immediate direction and

control of acts of the water commissioner and of the distribution of water in his water division.

Sec. 4. **Same—duties of superintendents.**—Such superintendents shall, under the direction of the department of public works see that the laws relative to the distribution of water are executed in accordance with the rights of priority of appropriation.

Sec. 5. **Same—expense of superintendents.**—The superintendents shall make itemized reports to the department of public works of their time and expenses to be paid out of any state funds not otherwise appropriated, on certificate of the department of public works showing the amount of such employment, and on presentation of such certificate to the state auditor he shall issue a warrant on the state treasurer for the amount thereof.

Sec. 6. **Same—compensation of superintendents.**—The superintendents shall be paid six dollars per day for every day actually consumed in the performance of their duties as such superintendents, and shall in addition be paid their actual necessary traveling and other expenses incurred in the performance of their duties; and for such books and stationery as the department of public works may require them to furnish: Provided, a superintendent shall not receive more than twelve hundred dollars in any one year on account of service as herein provided, including expenses.

Sec. 7. **Adjudication of water rights.**—The department of public works shall make proper arrangements for the determination of priorities of right to use the public waters of the state, and determine the same. The method of determining the priority and amount of appropriation shall be fixed by the department.

Sec. 8. **Measurement of water in streams.**—The department of public works shall measure or cause to be measured, the quantity of water flowing in the several streams of the state and make a record thereof in the office of the department of public works and shall from time to time make such additional measurements as may be necessary, in considering applications for water appropriations and such controversies as may arise regarding the distribution of water.

Sec. 9. **Forfeiture of rights.**—All appropriations for water

must be for some beneficial or useful purpose, and when the appropriator or his successor in interest ceases to use it for such purpose the right ceases. The department of public works shall, as often as necessary, examine into the condition of every water appropriation, and into the condition of all ditches constructed or partially constructed within the state, and shall compile information concerning the condition of every water appropriation, and all ditches and canals and other works constructed, or partially constructed thereunder and if it shall appear that any water appropriation has not been used for some beneficial or useful purpose, or having been so used at one time has ceased to be used for such purpose, for more than three years, the department of public works shall appoint a place and time of hearing and shall serve notice upon the owners of such water appropriation or such ditch or canal, or other diverting works to show cause by such time and at such place, why the water appropriation owned by such person should not be declared forfeited and annulled, and shall also serve such notice upon the land owners under such water appropriation, ditch or canal. Such notice shall contain the date and place of hearing, a description of the water appropriation, the number thereof upon the books and records of the department of public works, the date of priority, the point of diversion and a description of the lands which are located under such water appropriation, and shall call upon all persons interested in said water appropriation to show cause why the same shall not be cancelled or annulled. Such notice shall be served personally at least thirty days before said date of hearing upon those owning or controlling the water appropriation and the ditch, canal or reservoir for the purpose of using or storing water for any purpose whatsoever, if they are known to the department of public works to be the owner thereof and maintain an office within the state of Nebraska; and if they do not maintain an office within the state of Nebraska, then such notice shall be served by the publication thereof in some legal newspaper in the county in which the place of diversion of said water appropriation is located, for four consecutive weeks prior to said date of hearing and a copy of such notice shall further be personally served or sent by registered mail to all persons appearing from the records of the county clerk or register of deeds to

be land owners under such appropriation. At such hearing the verified report of the district superintendent shall be prima facie evidence for the forfeiture and annulment of such water appropriation. If no one appears at said hearing, such water appropriation shall be declared forfeited and annulled. If some one interested appears and contests the same, the department of public works shall hear evidence, and if it appears that such water has not been put to a beneficial use, or has ceased to be used for such purpose for more than three years, the same shall be declared cancelled and annulled. An appeal may be taken from the decision of the department of public works upon said hearing to the district court of the county in which the point of diversion of such water appropriation is situated.

Sec. 10. Record of adjudications.—As the adjudication of a stream progresses, and as each claim is finally adjudicated, the department of public works shall make and cause to be entered of record in its office an order determining and establishing the several priorities of right to use the water of said stream, and the amount of the appropriation of the several persons claiming water from such stream and the character of use for which each appropriation shall be found to have been made.

Sec. 11. Priority and amount of appropriations—how determined.—Each appropriation shall be determined in its priority and amount, by the time at which it shall have been made, and the amount of water which the works are constructed to carry. An appropriator shall at no time be entitled to the use of more than he can beneficially use for the purposes for which the appropriation may have been made, and the amount of any appropriation made by means of enlargement of the distributing works heretofore shall be determined in like manner. No allotment for irrigation shall exceed one cubic foot per second of time for each seventy acres of land, nor three acre-feet in the aggregate during one calendar year for each acre of land for which such appropriation shall have been made; neither shall it exceed the least amount of water that experience may hereafter indicate is necessary, in the exercise of good husbandry, for the production of crops. Where an appropriation is to irrigate an area of forty acres or less under an allotment of one-seventieth of one cubic foot or less per second continuous flow for each acre, and

the amount is so small that that a proper distribution and application is impossible, as much water as the applicant can use without waste may be allowed for a limited time so fixed as to give each appropriator his just share without violating prior rights.

Sec. 12. Certificate of adjudication.—Within thirty days after the determination of the priorities of appropriation of water of any stream, the department of public works, shall issue to each appropriator a certificate setting forth the name and post office address of the appropriator, the priority number of each appropriation, the amount of water appropriated and the amount of prior appropriations, and if such appropriation be for irrigation, a description of the land to which the water is to be applied and the amount thereof. Such certificate shall be transmitted by the department of public works by registered mail to the county clerk of the county in which the appropriation shall have been made. The county clerk, within ten days after the receipt of such certificate, shall record the same in a book especially prepared and kept for that purpose, and shall notify the person in whose favor the certificate is issued, of such record, and transmit said certificate to such person on payment of the fees for recording, which fee shall not exceed seventy-five cents for each certificate so recorded.

Sec. 13. Prosecution of construction.—Within six months after the approval of any application for water for irrigation, power or other useful purpose under this article by the department of public works the person making such application shall commence the excavation or construction of the works in which it is intended to divert the water, and the actual construction of any water power plant and reservoir or reservoirs for storage in connection therewith and shall vigorously, diligently and uninterruptedly prosecute such work to completion unless temporarily interrupted by some unavoidable and natural cause. A failure to comply with the provisions of this section, shall work a forfeiture of the appropriation and all rights thereunder. The cost of promotion and engineering work shall not be considered a part of the cost of construction and the progress of the construction work shall be such that one-tenth of the total work shall have been completed within one year from the date of approval

of the application. The applicant shall, at the end of six months after the allowance of his application, furnish to the department of public works a detailed report of the total amount of work necessary to complete the project, which report shall conform to the requirements of the department of public works and satisfactory evidence that the work of construction has been begun. The construction of all work required in connection with the proposed project shall be prosecuted in the manner above described and with such a force as shall assure the average rate of constructional progress necessary to complete such work or works within the time stipulated in the approval of such application, notwithstanding the ordinary delays and casualties that must be expected and provided against. In the case of an applicant for an appropriation granted for the development of water power, the appropriator shall, on or before the tenth day of each month after the date fixed for the commencement of such work, report under oath, to the department of public works the actual amount of money expended upon such power development during the preceding calendar month for right of way and land, labor, salaries, material and machinery, not including construction or equipment delivered upon the ground, and said report shall be made in form, detail and manner prescribed by the department of public works. A failure to carry on the construction of either an irrigation or water power project, as outlined above, or in the case of a water power development, a failure to file the above reports within the time required, shall work a forfeiture of the appropriation and all rights thereunder and the department of public works shall cancel said appropriation within thirty days of such failure. The department of public works shall have free access to all records, books and papers of any irrigation or water power company and shall have the right to go upon the right of way and land of any said company, and shall inspect said work to see that it is being done according to plans and specifications approved by the department of public works, and shall also keep a record of the cost of construction work, where the same is deemed advisable for physical valuation purposes.

Sec. 14. State board of irrigation—jurisdiction—hearings.—
The department of public works is given jurisdiction over all matters pertaining to water rights for irrigation, power or other

useful purposes, highways and drainage and shall adopt rules governing matters coming before it. It may refuse to allow any water to be used by claimants until their rights have been determined and made of record. It may request information relative to irrigation, water power, highways and drainage works, from any and all county, irrigation, power or drainage officers, and from any other person or persons. It shall have public hearings on complaints, petitions or applications in connection with any of the above matters. Such hearings may be had at the time and place designated by the department. The department of public works shall have power to certify to official acts, compel attendance of witnesses, take testimony by deposition, as in suits at law, to examine books, papers, documents and records of any county, party or parties interested in any of the matters hereinbefore mentioned, or have such examination made by its qualified representative, and shall make and preserve a true and complete transcript of its proceedings and hearings. Upon any hearing, the department shall receive any evidence relevant to the matter under investigation, and the burden of proof shall be upon the person making the complaint, petition and application. After such hearing and investigation, the department shall render a decision in the premises in writing and shall issue such order or orders, duly certified, as it may deem necessary.

Sec. 15. Appeal from determination of department.—If any county, party or parties interested in irrigation, water power, highways or drainage work affected thereby shall be dissatisfied with the decision or with any order adopted, said dissatisfied county, party or parties may institute proceedings in the supreme court or Nebraska to reverse, vacate or modify the order complained of. The procedure to obtain such reversal, modification or vacation of any such decision or order upon which a hearing has been had before said department shall be governed by the same provisions now in force with reference to appeals and error proceedings, from the district court to the supreme court of Nebraska. The evidence presented before the department of public works as reported by its official stenographer and reduced to writing together with a transcript of the record and pleadings upon which the decision is based, duly certified in said case under the seal of the department of public works, shall constitute the

complete record and the evidence upon which the case shall be presented to the appellate court: Provided, however, the time for perfecting such appeal shall be limited to sixty days, and the supreme court shall advance such appeal to the head of its docket.

Sec. 16. **Appropriation—water—application—allowance.—**

The United States of America and every person, hereinafter intending to appropriate any of the public waters of the state of Nebraska, shall before commencing the construction, enlargement or extension of any works for such purpose, or performing any work in connection with the same, or before taking any water from any constructed works, make an application to the department of public works for a permit to make such appropriation. The application shall set forth the name and postoffice address of the applicant, the source from which said appropriation shall be made, the amount thereof as near as may be, the location of any proposed work in connection therewith, the time required for its completion, which shall embrace the period required for the construction of the ditches thereon, the time at which the application of the water for the beneficial purposes shall be made, which shall be limited to the time required for the completion of the work when prosecuted with diligence, the purpose for which water is to be applied, and, if for irrigation, a description of the land to be irrigated thereby, and the amount thereof and any additional facts which may be required by the department of public works. On receipt of the application, which shall be on a form prescribed by the department of public works and be furnished by it without cost to the applicant, the department shall make a record of the receipt of said application and cause the same to be recorded in its office, and make a careful examination of the application to ascertain whether it sets forth all the facts necessary to enable the department to determine the nature and amount of the proposed appropriation. If such an examination shows the application in any way defective it shall be returned to the applicant for correction, with a statement of the correction required, within thirty days after its receipt; and thirty days shall be allowed for the refiling thereof, in default of which refiling the application shall stand dismissed. If filed corrected as required, within such time, the application shall, upon being accepted and allowed, take priority as to date of the original

filing, subject to compliance with the future provisions of the law and the regulations thereunder.

Sec. 17. **Approval of application.**—If there is unappropriated water in the source of supply named in the application, and if such application and appropriation when perfected is not otherwise detrimental to the public welfare, the department shall approve the same, by endorsement thereon, and shall make a record of such endorsement in some proper manner in its office and return the same so endorsed to the applicant, who shall, on receipt thereof, be authorized to proceed with the work and to take such measures as may be necessary to perfect such application into an appropriation. The priority of such application and appropriation when perfected shall date from the filing of the application in the office of the department and the date of filing shall be regarded as the priority number thereof. The department may, upon examination of such application, endorse its approved for a less period of time for perfecting the proposed appropriation, or for a less amount of water, or for a less amount of land than applied for. An applicant feeling himself aggrieved by the action of the department shall, upon proper showing, be granted a hearing before the department, which hearing shall be conducted in accordance with the rules of procedure adopted by the department, and a full and complete record shall be kept of all such proceedings. When a complete record of the case has been made up, the department shall render an opinion of facts and of law based upon the evidence before it.

Sec. 18. **Refusal of applications.**—If there is no unappropriated water in the source of supply, or if a prior appropriation has been perfected to water the same land to be watered by the applicant, the department, may refuse such application, and the party making such application shall not prosecute such work so long as such refusal shall continue in force. An application for appropriation shall not be exclusive of any of the lands included therein until the owner or owners of such land shall give consent to the same in proper form, duly acknowledged. No application made, or canal constructed, prior to the application of the water and the perfection of an appropriation therefor, or the filing of the consent herein provided, shall prevent other applications from being allowed, and other canals from being con-

structed, to irrigate the same lands or any of them. In case of an application for an appropriation of water for the development of water power, the department shall promptly act upon such application and limit the time within which such appropriation shall be perfected to the period within which the proposed power project can be completed by uninterrupted and expeditious construction.

Sec. 19. **Approval—plat or map.**—Upon approval and allowance of an application, the applicant shall file in the office of the department, within six months thereafter, a map or plat, which shall conform to the rules and regulations of the department as to material, size and coloring, and be upon a scale of not less than two inches to the mile. Such map or plat shall show the source from which the proposed appropriation is to be taken, and all proposed dams, dykes, reservoirs, canals, power houses and other structures for the purpose of storing, conveying or using water for any purpose whatsoever, and their true courses or positions in connection with the boundary lines and corners of lands which they occupy. Land listed for irrigation shall be shown in government sub-divisions or fractions thereof, as the case may be; and no rights shall be deemed to have been acquired under the provisions of this section shall have been complied with, and a failure to so comply shall work a forfeiture of the appropriation and all rights thereunder.

Sec. 20. **Certificate of appropriation.**—When it shall appear to the satisfaction of the department that an application has been perfected the department shall send to the county clerk a certificate of the character described in this article, which certificate shall be by him recorded.

Sec. 21. **Standard measurements of water.**—The standard of measurement for flowing water, both for determining the flow of water in natural streams and for the purpose of distributing it therefrom when appropriations shall have been made for direct flow shall be one cubic foot per second of time. The standard of measurement of the volume of water shall be one acre foot, equivalent to forty-three thousand five hundred sixty cubic feet, and when water is stored in any natural or artificial reservoir, this standard shall be used for determining the capacity of stor-

age reservoirs, the amount stored and the amount used therefrom. One "miner's inch" shall be one-fiftieth of one cubic foot per second.

Sec. 22. **Water districts.**—The department shall divide each water division into subdivisions, the boundary lines of which shall conform to the division lines of the watersheds therein. Each subdivision shall be divided into water districts, which shall not include territory in more than one subdivision of any water division, but there may be as many water districts in any one subdivision as the department may deem necessary.

Sec. 23. **Water commissioner.**—For each district created under the next preceding section, the department shall appoint one water commissioner, who shall hold his office for a period of two years unless sooner removed by the department.

Sec. 24. **Same—duties.**—The water commissioner, shall perform such duties in the distribution of the waters of his district as may be assigned to him by the department.

Sec. 25. **District commissioner—compensation.**—The water commissioners shall each be paid four dollars per day and actual necessary traveling expenses for each day he shall be actually employed. Each water commissioner shall keep a just and true account of the time spent by him in the performance of his duties, and he shall present a verified copy thereof, to the superintendent of his water division, who shall approve the same if found to be correct, and file it with the department, to be paid as are other expenses of the department. Provided, that the total compensation and traveling expenses of all water commissioners shall not exceed the sum of five thousand (\$5000) dollars per annum.

Sec. 26. **Headgates in measuring devices—failure to construct.**—Persons owning or controlling any ditch, canal or reservoir for the purpose of storing or using water for any purpose shall, upon thirty days' notice by the department, construct and maintain at the point of diversion a substantial headgate, of a design approved by the department so built that it may be closed, or partially closed and fastened at any stage with lock or seal. They shall also construct a device for measuring and apportioning the water appropriated, which device shall be of a design approved by the department and built at the most practical point

to be selected and fixed by it. If they shall neglect or refuse, for a period of ten days, to construct such headgate and measuring device the department shall refuse to allow any water to be delivered to or used by or through any such ditch, canal or reservoir or any other contrivance or device for appropriating, using or storing water, and the department may construct bars or dams or other obstructions to prevent such delivery or use.

Sec. 27. **Dam—reservoir.**—Any person intending to construct any dam for reservoir purposes or across the channel of any running stream, shall, before beginning such construction, submit the plan of the same to the department for examination and approval, and no dam shall be constructed until the same shall have been so approved. Any person constructing a dam across the channel of any running stream without having obtained such consent and approval, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not exceeding one hundred (\$100.00) dollars; and every day such dam is maintained shall be considered a separate offense.

Sec. 28. **Additional appropriation—when and how made.**—Whenever any person shall desire to divert any of the unappropriated waters of any natural lake or reservoir for the purpose of irrigating land for which water has already been appropriated, but for which in times of scarcity no water can be obtained from the appropriation already made therefor, such person may make application therefor and proceed as in cases of original application for appropriation.

Sec. 29. **Drainage plans—approval.**—All plans for proposed drainage districts shall be approved by the department of public works before any contract is let or work begun. The department shall have authority to order any change in said plans and require the drainage district to conform thereto, and at all times during the construction have the right to inspect said work and make recommendations pertaining to the same. Upon request of any party in interest the department may prepare and furnish at cost plans and specifications for any proposed drainage work.

Sec. 30. **Surface.**—The department may make surveys of streams, showing location of possible water power developments, irrigation and drainage projects.

Sec. 31. **Measuring weirs—interstate waters.**—The department may require operators of interstate ditches in Nebraska to construct and maintain a measuring weir at or near the state line of a type approved by said department and may require them to furnish daily reports of the amount of water passing through said weir into the state of Nebraska.

DIVISION 3.

CONSTRUCTION AND OPERATION OF IRRIGATION WORKS

Section 1. **Ditches, works of internal improvement.**—Canals and other works constructed for irrigation or water power purposes, or both, are hereby declared to be works of internal improvement; and all laws applicable to works of internal improvement are hereby declared to be applicable to such canal and irrigation works.

Sec. 2. **Right of eminent domain.**—All persons desirous of constructing a ditch, building a dam, or dams, for the purpose of storing water for irrigation, evaporation and water power purposes, or conveying water to be applied to domestic, agricultural or any other beneficial use, or any dam, dike, reservoir, waste way, subterranean gallery, filtering wells, or other works for collecting, cleansing, filtering, retaining or storing water for any such use or to enlarge any such ditch, conduit, or water works, or to change the course thereof in any place, or to relocate the headgate or to change the point at which the water is to be taken into such canal or other water works, or to enlarge any ditch, canal or other works, heretofore constructed, or to construct any ditch, or to lay pipes or conduits for conveying or distributing water so collected or stored to the place of using the same, or to set, place or construct a wheel, pump, machine or apparatus for raising water out of any stream, lake, pond or well so that the same may flow or be conveyed to the place of using or storing the same, and who shall be unable to agree with the owner or claimant of any lands, necessary to be taken for the site of any such works or any part thereof, touching the compensation and damages, shall be entitled to condemn the right of way over or through the lands of others for any and all such purposes.

Sec. 3. Petition—procedure.—In case of the refusal of the owner or claimant of any lands through which such ditch, canal or other works are proposed to be made or constructed, to allow the passage thereof, the person, desiring the right of way, may present to the judge of the county in which such lands are situated, a petition describing the lands to be crossed, the size of the ditch, canal or works, the quality of land which is required to be taken, and setting forth the names of the parties interested in the lands to be crossed, and praying for the appointment of five appraisers, disinterested freeholders of said county, to ascertain the compensation to be made to such owners or parties interested. Upon the filing of said petition, the same proceedings for condemnation of such right of law shall be had as is provided by law for the condemnation of rights of way for railroad corporations; and the same provisions of law providing for the condemnation of rights of way for railroad corporations, the payment of damages and the rights of appeal shall be applicable to irrigation ditches, canals and other works provided for in this article.

Sec. 4. Right of way for irrigation laterals.—Whenever any person has acquired any rights to water for any lands owned by him where prior to the building of the laterals and the application of the water, any intervening canal, ditch or lateral has been constructed, he shall have the right to construct laterals from such irrigation canal to the lands owned by him and to have such irrigation laterals cross the lands and intervening canals to the land owned by him. If such intervening owner shall refuse to sell the right of way for such irrigation lateral, the owner shall have the right of eminent domain to condemn said right of way, in the same manner as condemnation proceedings are now permitted for the construction of irrigation canals.

Sec. 5. Right of way to federal government.—There is hereby granted, over all the lands now or hereafter belonging to the state of Nebraska, a right of way for ditches, tunnels and telephone and transmission lines necessary to the construction and operation of any irrigation works constructed by authority of the United States; and in all conveyances the said right of way shall be reserved.

Sec. 6. **May change place of diversion.**—The owner of any ditch, storage reservoir, or other device for appropriating water may, upon petition to the department, and upon its approval change the point of diversion of, or the line of any flume, ditch or aqueduct. In no case shall the point of diversion for water power purposes be more than two miles distant from the original point of diversion.

Sec. 7. **Use of state lands and highways.**—All persons desirous of constructing any of the works provided for in the preceding sections, shall have the right to occupy state lands and obtain right of way over, and across any highway in this state for such purpose without compensation. All bridges or crossings over such ditches, laterals and canals shall be constructed under the supervision of the county. All such persons, may obtain a right of way not to exceed sixteen feet in width, for a like purpose along, parallel to and upon one side of any sixty-six foot highway by condemnation proceedings where the same does not interfere with the proper drainage of such highway. In such cases the abutting landowner and the county may grant such right of way, or in case of their refusal notice shall be served upon them and proceedings had as in other cases. Not more than one such ditch or lateral shall be permitted along the side of the same highway.

Sec. 8. **Conducting into and from natural streams.**—Any person may conduct water into or along any of the natural streams or channels of this state, and may withdraw all such water at any point without regard to any prior appropriation of water from said stream, due allowance being made for evaporation and seepage to be determined by the department of public works. Subject to the exceptions hereinafter stated, before any person may conduct water into or along any of the natural streams or channels of this state he shall first obtain the consent in writing of the majority of residents and land owners bordering upon such stream or channel, and shall be liable for any damages resulting from the overflow of such stream or channel when water so conducted contributed to such overflow. Any person actually engaged in the construction or operation of any water power plant may, without such written consent, upon payment of all damages, use any such stream or channel for a tail-race or canal ;

and may, whenever necessary, widen, deepen, or straighten the bed of any such stream. All damages resulting therefrom shall be determined in the manner prescribed by law for assessing damages where property is appropriated for the right of way for irrigating ditches, canals and reservoirs.

Sec. 9. (Ch. 68, Laws 1915) **Management of ditches—changing line of ditch—damage.**—No owner of any ditch or canal shall change the line of the ditch or canal so as to interfere with the use of water by anyone, who, prior to the proposed change, had used water for irrigation purposes, from such ditch or canal, and the owner of any such ditch or canal shall keep the same in good repair so as to permit the water to flow in a quantity sufficient to furnish the statutory amount to the lands entitled thereto at all reasonable times. The majority of the water users under any ditch may designate such reasonable time for the use of water as such majority may determine upon, upon a written notice signed by such majority to the persons in control of such ditch. No ditch shall be closed between April 1st and October 1st. Ditches or canals which are supplied wholly or mainly from reservoirs shall not be required to furnish water for irrigation between November 1st and April 15th, following. Under all projects where two-thirds of the water users shall petition the owner in writing, the owner may limit the flow of water in the canal in accordance with said petition between November 1st and April 15th, following; and for a failure to cause the water to flow as aforesaid, the owner or owners or lessees of any such ditch or canal shall be liable to anyone for any damage resulting from such failure, and in addition, the person damaged shall have a lien upon such ditch or canal, which lien shall continue in force until such damages are paid, unavoidable accidents and shortage in the source of supply excepted.

Sec. 10. **Interfering with closed waterworks—taking water without authority—penalty.**—Any person owning or in control of any ditch, reservoir or other device for appropriating or using water who shall wilfully open or close, change or interfere with the headgate or controlling gate, or by any method or means take any water from any natural stream, reservoir or other source, through any ditch or canal to any land or lands, or allow the same to be done, or use or allow to be used any water upon

any land or lands, or for any other purpose whatsoever, without authority from the department of public works, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be fined in any sum not less than one hundred (\$100.00) dollars and not more than one thousand (\$1,000.00) dollars or imprisoned in the county jail for a term not exceeding six months with an additional fine of five hundred (\$500.00) dollars for each day the water is allowed to run without authority from the department.

Sec. 11. **Construction through private property.**—Any person, constructing a ditch or canal through the lands of another, having no interest in said ditch or canal shall build such ditch or canal in a substantial manner so as to prevent damage to such land. In all cases where necessary for the free and convenient use of lands on both sides of the ditch or canal by the owner or owners of such lands, the owner or those in control of such ditch shall erect substantial and convenient bridges across such canal or ditch, and they shall erect and keep in order suitable gates at the point of entrance and exit of such ditch through any enclosed field.

Sec. 12. **How lease—duty of owner.**—Any owner or person in control of any ditch for irrigation purposes shall have his ditch in order to receive water from the source of supply on or before April 15th of each year, and shall construct necessary outlets in the banks for the delivery of water to all persons who are entitled to the same, and shall maintain a substantial head-gate and measuring box or weir at the head of each lateral, which shall be constructed in accordance with plans and specifications approved by the department. A multiplicity of outlets shall be avoided. The outlet shall be at the most convenient and practicable points consistent with the protection and safety of the ditch and the efficient distribution of water among the various claimants thereof.

Sec. 13. **Right to use running water in canyons and ravines.**—The right to the use of running water flowing in any river or stream or down any canyon or ravine may be acquired by appropriation by any person.

Sec. 14. **Superintendent of canals—duties.**—The owner or operator of any ditch or canal used for irrigation shall appoint

a superintendent who shall measure the water flowing through the outlets of such ditch or canal, and for the greater security of all concerned he may cause the gates to be securely locked and may retain in his possession all keys. In the event of the failure of the owner or operator to appoint a superintendent, as herein provided, any water user may petition the department of public works to appoint a superintendent. The department may appoint a superintendent for such ditch or canal, and said superintendent shall be entitled to three dollars per day for the time actually employed in the performance of his duties which shall be paid by the owner or operator of said ditch or canal, and in the event of his failure to make such payment, the amount due shall become a lien upon said ditch or canal.

Sec. 15. Water lands to be listed by officers of company.—By the first day of April each year, a verified list of all lands to be irrigated, the acreage of each tract, the names of the owners or controllers, or in the case of a corporation or an association, of its officers, shall be furnished the department for every ditch, reservoir or other device for appropriating, diverting, carrying or distributing water to be used as a basis for the distribution of water until the first day of April of the following year. A recording gauge, of a design to be approved by the department, shall be installed by the owners or controllers, in every canal and waste ditch, to record the amount of water used. The department shall not furnish any water to be delivered to or used by or through any ditch, reservoir or other contrivance for the appropriation, use or storage of water until the provisions of this section have been complied with, and may construct bars or dams to prevent such delivery or use.

Sec. 16. Duties of persons taking water.—No person shall accept more water from any ditch, canal or reservoir than he is justly entitled to. On finding that he is receiving more water either through his head-gate or by means of leaks or by any other means, than he is entitled to receive he shall immediately take steps to prevent the same. If he knowingly permits such excess water to come upon his land, and fails to promptly notify the owner of such ditch, canal or reservoir, he shall be liable in damages to any person who shall be injured thereby.

Sec. 17. **Reservoir.**—Every person intending to construct and maintain a storage reservoir for irrigation or any other useful purpose, shall make an application to the department of public works upon a form prescribed and furnished to the applicant without cost. Such application shall be filed and proceedings had thereunder in the same manner and under the same rules and regulations as other applications. Upon the approval of such application the applicant shall have the right to impound all waters not otherwise appropriated and any appropriated water not needed for immediate use, to construct and maintain necessary ditches for the purpose of conducting water to such storage reservoir, and to condemn land for such reservoir and ditches in the same manner as is provided by law for the condemnation of rights of way for other ditches. The owner of such storage reservoir shall be liable for all damages arising from leakage or overflow of water therefrom, or from the breaking of the embankment of such reservoir. The owners or possessors of reservoirs shall not have the right to impound any water whatever in such reservoirs during the time that such water is required in ditches for direct irrigation or for reservoirs holding senior rights. Whenever any person shall divert water from a public stream and return it into the same stream, he may take out the same amount of water, less a reasonable deduction for seepage and evaporation to be determined by the department providing no prior appropriator for beneficial use shall be prejudiced by such diversion. After the completion of such storage reservoir to the satisfaction of the department any person, proposing to apply to beneficial use the water stored shall file with the department an application for a permit, particularly describing the use to which the water is to be applied and, if for irrigation, a description of the land to be irrigated. The owner of such storage reservoir shall have a preferred right to make such application for a period of six months from the time limited for the completion of such reservoir. The day of expiration of such period shall be endorsed upon the application when allowed. If made by any other than such owner or owners prior to the expiration of such time, the same shall not be approved by the department until the applicant shall show by documentary evidence that he has acquired a sufficient interest in such storage reservoir to entitle him to enough water

for the purpose set forth in said application. No appropriation of stored water for irrigation shall exceed three acre feet during any calendar year for each acre of land for which said appropriation may be made. A reservoir constructed for the purpose of holding water back and raising it in order that it may be applied to lands of a higher level or given a greater head for power, shall not be considered a storage reservoir, but such reservoir together with the diverting or impounding dam, must be described in an application for flowing water when water is to be raised, in order to perfect the appropriation.

Sec. 18. Neglecting and preventing delivery.—Any superintendent or other person having charge of a ditch or canal used for irrigation purposes, who shall neglect or refuse to deliver water as in this article provided, or any person or persons who shall prevent or interfere with the proper delivery of water to the person or persons having the right thereto, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not more than one hundred dollars for each and every such offense, or shall be imprisoned in the county jail not more than thirty days.

Sec. 19. Ditches—highways—duties of owners.—Any person, constructing any ditch, lateral or canal upon or across any highway shall keep such highway open for safe and convenient travel and shall, as soon as practicable after such ditch, lateral or canal is constructed across such highway, and without interfering with the travel on said highway, erect across said lateral, ditch or canal, when the same is constructed to carry more than twelve cubic feet of water per second, a suitable wagon bridge not less than sixteen feet in width in good material, and construct suitable approaches thereto with a grade not exceeding three per cent; and all laterals and ditches carrying not more than twelve cubic feet of water per second shall be covered or tiled with cement, concrete or other watertight material for a distance of twelve feet on each side of the center line of such highway, and the ends thereof protected in such manner as to prevent the water overflowing therefrom onto the highway, and the top of such crossings when completed, including the necessary dirt thereon, shall in no case be above the natural or established grade of such highway; Provided, however, that where in the judgment

of the county board, it is inexpedient, because of local conditions to require the bridges of the laterals to conform strictly to the specifications herein mentioned, said board is authorized to alter said specifications in such manner as in their judgment such local conditions warrant. All bridges and crossings herein provided for shall be approved by the road overseer and from his judgment or order in any such case, any taxpayer may appeal to the county board. All that shall be required in such an appeal will be a written statement of the location and conditions existing, and on receipt thereof it shall be the duty of the county board to immediately examine such bridge or crossing, and if the same shall be found unsafe or defective, they shall notify the owner of such lateral, ditch or canal to remedy such defects and also to pay the cost of making such examination, and in default of so doing within a reasonable time, such lateral, ditch or canal shall be deemed an obstruction in the public highway and may be forthwith removed by the county board or the road overseer, and damages collected as in other cases for the obstruction of public highways.

Sec. 20. **Embankments—return of unused water.**—The owner or owners of any irrigation ditch or canal shall carefully maintain the embankments thereof so as to prevent waste therefrom, and shall return the unused water from such ditch or canal with as little waste thereof as possible to the stream from which such water was taken, or to the Missouri River.

Sec. 21. **Overflow on roads.**—No owner of any water power, or irrigation ditch, canal or lateral shall so construct, maintain or operate the same as to permit any water to escape therefrom upon any public road or highway. No person in the application of water in the irrigation of lands shall permit the same to escape from said lands and to flow upon any public road or highway. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, be fined in the sum of ten (\$10.00) dollars for each offense so committed. Each day water is permitted to flow or escape upon any public road or highway in violation of the foregoing prohibitions shall be deemed a separate and distinct offense. The overseer of highways in which a violation occurs shall make com-

plaint therefor, but no other person shall be precluded from making complaint.

Sec. 22. **Exemption from taxation.**—All ditches, canals, laterals or other works used for irrigation purposes shall be exempt from all taxation, whether state, county or municipal.

Sec. 23. **Contract for use of water—record.**—Whenever any person owning any irrigation ditch or canal, shall convey by deed or contract the right to use the water from such ditch or canal for any tract of land for irrigation purposes, such deed or contract shall be recorded in the county where such land is situated, in the same manner and under the same conditions as deeds for real estate. Such deed or contract, from the date of the recording thereof, shall be binding upon the grantor, his, their or its successors or assigns, and all persons claiming any interest in such ditch or canal. No foreclosure or other proceedings to subject the property of the owner of such ditch or canal to the satisfaction of any lien or claim, shall in any manner impair the right of such grantee, his heirs, administrators or assigns, to the use of the water from such ditch or canal in the quantity and manner provided in his deed or contract.

Sec. 24. **Mutual irrigation companies.**—Any corporation or association organized under the laws of the state for the purpose of constructing and operating canals reservoirs and other works for irrigation purposes, and deriving no revenue from their operation shall be termed a mutual irrigation company, and any by-laws adopted by such company prior to, or after the passage of this article, not in conflict herewith, shall be deemed lawful and so recognized by the courts of this state: Provided, such by-laws do not impair the rights of one shareholder over another.

Sec. 25. **Debts, bonds and mortgages of corporation.**—Any corporation or association organized under the law of this state for the purpose of constructing any operating canals, reservoirs and other works for irrigation and water power purposes, shall have power to borrow money, to issue bonds and to mortgage their property and franchises in the same manner as railroad corporations.

Sec. 26. **Corporations — assessments — enforcement.**— Any corporation or association organized under the laws of this state

for the purpose of constructing or operating canals, reservoirs or other works for irrigation purposes may, through its board of directors or trustees assess the shares, stock or interest of the stock holders thereof for the purpose of obtaining funds to defray the necessary running expenses. Any assessments levied under the provisions of this section shall become and be a lien upon the stock or interest so assessed. Such assessments shall, if not paid, become delinquent at the expiration of sixty days, and the stock or interest may be sold at public sale to satisfy said lien. Notice of such sale shall be published for four consecutive weeks prior thereto, in some newspaper published and of general circulation in the county where the office of the company is located. Upon the date mentioned in the advertisement, or upon the date to which the sale may have been adjourned, the said stock, or interest, or so much thereof as may be necessary to satisfy said lien and costs, shall be sold to the highest bidder for cash.

Sec. 27. State railway commission fix rates for water.—
Irrigation works constructed under the laws of this state are hereby declared to be common carriers. The owner or operator of any works for the storage, carriage or diversion of water, except irrigation districts, shall deliver all water legally appropriated to the parties entitled thereto, at a reasonable rate, to be fixed by the state railway commission.

Sec. 28. United States furnish individuals stored water.—
The United States of America is hereby authorized, in conformity to the laws of the State of Nebraska, to appropriate, develop and store any unappropriated, flood or unused waters, in connection with any project constructed by the United States pursuant to the provisions of an Act of Congress approved June 17, 1902, being an Act providing for the reclamation of arid lands (32 Stat. L. 388), and all acts amendatory thereof and supplemental thereto. When the officers of the United States Reclamation Service shall determine that any water so developed, or stored is in excess of the needs of the project as then completed, or is flood or unused water, the United States may contract to rent or sell such developed, stored, flood or unused water, under the terms and conditions imposed by Act of Congress and the rules and regulations of the United States, to any person who may have

theretofore been granted a permit to appropriate a portion of the normal flow of any stream, if the water belonging to such person, shall during some portion of the year, be found insufficient for the needs of the land to which it is appurtenant. The United States and every person, entering into a contract as herein provided shall have the right to conduct such water into and along any of the natural streams of the state, but not so as to raise the waters thereof above ordinary high water mark, and may take out the same again at any point desired, without regard to the prior rights of others to water from the same stream; but due allowance shall be made for evaporation and seepage, the amount of such allowance to be determined by the department of public works. The department shall supervise and enforce the distribution of such water so delivered with like authority and under the same provisions as in the case of general appropriators. A certified copy of all such contracts for the sale or rental of water by the United States as herein provided shall immediately upon their execution be furnished to the department; and the water superintendent and water commissioner of the district shall be notified of the time when such water shall be delivered.

Sec. 29. **Irrigation stock subscription books.**—The county clerk is hereby authorized to accept from water users' associations, organized in conformity with the requirements of the United States under the reclamation act, books containing printed copies of their articles of incorporation and forms of subscription to stock, and to use such books for recording the stock subscriptions of such associations, and the charges for the recording thereof shall be made on the basis of the number of words actually written therein.

ARTICLE V.

NATURAL LAKES.

Section 1. **Drainage of natural lake.**—No person shall drain, lower or in any manner reduce or divert, the water supply of any natural or perennial lake, if the area exceeds twenty acres at low water stage, or if the lake is of such depth and character as to have more economic importance for fish culture, hunting

or other purpose, than the bed of said lake would have for agricultural purposes. Any person, intending to drain, lower, divert or in any way reduce the waters or water supply of any natural or perennial lake, shall, before commencing the construction of any such works for drainage or diversion, make application to the department of public works for a permit so to do.

Sec. 2. **Application.**—On the receipt of such application, in form prescribed by the department, the department shall make a record of the receipt of such application and cause the same to be recorded in its office, and make a careful examination of the application to ascertain whether it sets forth all the facts necessary to enable the department to determine the nature and extent of the proposed works of drainage and diversion, and if such an examination shows the application to be in any way defective, it shall return the same to the applicant for correction.

Sec. 3. **Same—approval—when.**—If the proposed works of drainage or diversion will not result in injury or damage to any person, and will not be otherwise detrimental to the public welfare, but will result in economic benefit to the state, the department shall approve the same by endorsement thereon and shall make a record of such endorsement thereon in some proper manner in its office, the return the same so indorsed to the applicant, who shall on receipt thereof, be authorized to proceed with the work and to take such measures as may be necessary to its completion.

Sec. 4. **Same—rejected when.**—If it appears to the department that the proposed works of drainage or diversion will result in injury or damage to any person, or will be detrimental to the public welfare and not result in economic benefit to the state, the department, shall refuse to approve the application, and the party making such application shall not prosecute such work so long as such refusal shall continue in force.

Sec. 5. **Appeal from rejection of application.**—An applicant, feeling himself aggrieved by the endorsement made upon his application, may take an appeal therefrom to the district court of the county in which the proposed works may be situated. Such appeal shall be perfected when the applicant shall have filed in the office of the clerk of the district court a copy of the order

appealed from, certified by the department of public works as a true copy, together with a petition to such court, setting forth applicant's reason, for such an appeal. Such appeal shall be heard and determined upon proofs by the applicant and the department.

Sec. 6. **Land affected all owned by applicant—effect.**—In the event that the ownership of all the land used for drainage construction and of all the land forming the shoreline and the bed of said lake or lakes is vested in the person performing said works of drainage or diversion, the provisions of this article do not apply.

Sec. 7. **Violation—penalty.**—Any person violating the provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined for each offense in any sum not exceeding two hundred (\$200.00) dollars or imprisoned in the county jail not to exceed six months, or both.

TITLE VIII.

GENERAL PROVISIONS.

ARTICLE I.

LICENSES.

Section 1. **Affect of law on licenses in force at time of passage.**—All licenses duly issued at the time of the taking effect of this act shall be and continue in full force and effect, subject to the provision (provisions) hereof.

ARTICLE II.

PENAL CLAUSE.

Section 1. **Penalty.**—Any person, who shall violate any of the provisions of the code of laws included in this act, unless specifically otherwise provided in the act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding ten thousand (\$10,000) dollars.

ARTICLE III.

CONSTITUTIONALITY.

Section 1. **Constitutional in part or in whole—inducement.**—Should the courts declare any section or any part of a section, ~~or~~ any article or any part of an article, or any title or any part of a title, of this act unconstitutional or unauthorized by law, or in conflict with any other section or part or subdivision of a section or in conflict with any article or title of this act, then such decision shall affect only the section or part or subdivision of a section or article or title of this act so declared to be unconstitutional and shall not affect any other section or any other part or sub-division of a section or article or title of this act. It is further expressly provided that each section and each part or sub-division of a section herein and each article and each title so far as an inducement for the passage of this act is concerned is independent of every other section and every other part or subdivision or a section and every part of an article or title and not any section or any part or subdivision of a section or article or title is an inducement for the enactment of any other section or part or subdivision of a section or article or title of this act.

ARTICLE IV.

CONSTRUCTION.

Section 1. **Duties not specifically imposed to devolve on governor.**—Any duties heretofore imposed by any of the provisions of the statutes, by this act repealed, which have not, by this act, been specifically imposed upon any of the departments created by this act, shall be devolved upon the governor and the discharge of such duties may be delegated by him to any of the secretaries of departments created by this act.

Sec. 2. **All reports to be made to governor unless otherwise directed.**—Whatever reports are by the statutes of Nebraska directed to be made to any of the boards, commissions, deputies or assistants where such boards, commissions, deputies or assistants are by this act terminated by repeal or amendment of the statutory provisions creating the same, such reports shall be made to the governor, and any action directed to be made upon

such reports may by the governor be delegated to any of the secretaries of departments created by this act.

Sec. 3. Meaning of person—gender—respondeat superior.
—Wherever used in this act, the word person shall include natural persons, artificial persons, such as corporations, co-partnerships, associations and all aggregate organizations of whatsoever character. All words used herein implying the masculine gender may apply to and include the feminine or neuter gender and all words importing the plural number may be applied to and mean a single person, firm or thing or vice versa; all words importing the singular number may be applied to mean plural number. For the purposes of this act, the act, omission or failure of any officer, agent or any other person acting for, or employed by any corporation, company, society, association within the scope of his employment or his office shall be deemed to be an act of omission or failure of such corporation, company, society or association as well as that of the person.

ARTICLE V.

MEANING OF "DEPARTMENTS."

Section 1. Executive authority conferred on "departments" belongs to governor.—Wherever by this act, any executive authority is vested in, or any duty imposed upon a department, the word "department" or the words "department of finance," "department of agriculture," "department of labor," "department of trade and commerce," "department of public welfare" or "department of public works," shall be construed to mean the Governor of the State.

ARTICLE VI.

SAVING CLAUSE.

This act shall in no manner affect pending actions, either civil or criminal, founded on or growing out of any statute hereby repealed; this act shall in no manner affect rights or causes of action, either civil or criminal, not in suit, that may have already accrued or grown out of any statute hereby repealed.

ARTICLE VII.

REPEALS.

Section 1. **Repeal.**—That each and every of the following acts, laws and sections, and all acts and parts of acts in conflict herewith are hereby repealed, to-wit:

Chapter 215, Laws of 1917; Sections 144, 146, 148, 149 and 151 of the Revised Statutes for 1913; Sections 145, 150, 152, 153, and 154 of the Revised Statutes for 1913 as amended by Chapter 10 of the Laws of 1915; Section 147 of the Revised Statutes for 1913 as amended by Chapter 2 of the Laws of 1917; Chapter 169 of the Laws of 1915; Sections 2653, 2655 to 2667 inclusive, 2669 to 2675 inclusive, 2680 to 2709 inclusive, of the Revised Statutes for 1913; Sections 2654, 2668, 2676, 2677, 2678, and 2679 of the Revised Statutes for 1913 as amended by the Laws of 1917; Chapters 159, 160 and 161 of the Laws of 1917; Sections 3551 to 3563 inclusive, 3565 to 3641 inclusive, of the Revised Statutes for 1913; Section 3564 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 3137 to 3154 inclusive, 3156, 3157, 3158, 3159, 3161 to 3174 inclusive, 3176, 3177, 3179, 3180, 3182 to 3192 inclusive, 3194 to 3214 inclusive, 3216 to 3275 inclusive, 3277 to 3297 inclusive, 3299 to 3345 inclusive, of the Revised Statutes for 1913; Sections 3155, 3160, 3175, 3178, 3181, 3193, 3215, 3276 and 3298 of the Revised Statutes for 1913 as amended by the Laws of 1917; Chapters 79, 188 and 189 of the Laws of 1917; Sections 280 to 302 inclusive, 304 to 331 inclusive, Sections 333 to 356 inclusive, of the Revised Statutes for 1913; Section 303 of the Revised Statutes for 1913 as amended by the Laws of 1917; Chapter 165 of the Laws of 1917; Sections 738 to 742 inclusive, 744 to 752 inclusive, of the Revised Statutes for 1913; Section 743 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 486, 487, 489, 490, 492, 494 to 516 inclusive, of the Revised Statutes for 1913; Section 491 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 485, 488 and 493 of the Revised Statutes for 1913 as amended by Laws of 1917; Chapter 179 of the Laws of 1917; Sections 2500 to 2515 inclusive, of the Revised Statutes for 1913; Sections 5917, 5918, 5920 to 5926 inclusive, of the Revised Statutes for 1913 as amended by the Laws of 1917; Section 5919 of the

Revised Statutes for 1913 as amended by the Laws of 1917; Sections 2526, 2529 to 2531 inclusive, 2534 to 2541 inclusive, 2543, 2544, 2545, 2547, 2548, 2551, 2552, 2553, 2554, 2556 to 2569 inclusive, of the Revised Statutes for 1913; Sections 2532, 2542, 2549, 2550 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 2527, 2528, 2533, 2546 and 2525, Revised Statutes of 1913, as amended by the Laws of 1917; Sections 2570 to 2620 inclusive, Revised Statutes for 1913; Sections 2759 to 2766 inclusive, Revised Statutes for 1913; Chapter 158 of the Laws of 1917; Chapters 192 and 193 of the Laws of 1915; Sections 3094 to 3109 inclusive, 3111 to 3115 inclusive, 3117 to 3134 inclusive, of the Revised Statutes for 1913; Sections 3110 and 3116 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 7514 to 7523 inclusive, 7525 to 7530 inclusive, 7532, 7534 to 7546 inclusive, 7548 to 7557 inclusive, of the Revised Statutes for 1913; Sections 7531 to 7547 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 7524 and 7533 of the Revised Statutes for 1913 as amended by the Laws of 1917; Chapter 235 of the Laws of 1917; Sections 2737 to 2744 inclusive, 2717 to 2720 inclusive, 2722 to 2727 inclusive, of the Revised Statutes for 1913; Section 2721 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 2728 to 2736 inclusive, of the Revised Statutes for 1913; Sections 2745 to 2749 inclusive, 2751 to 2757 inclusive, of the Revised Statutes for 1913; Section 2750 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 2758 to 2770 inclusive, and 2788 to 2794 inclusive, of the Revised Statutes of 1913; Chapter 197 of the Laws of 1915; Sections 2798 to 2801 inclusive, 2805, 2808, 2811 to 2814 inclusive, 2816, 2817 and 2820, of the Revised Statutes for 1913; Sections 2795, 2796, 2797, 2802, 2803, 2804, 2807, 2810, 2815 and 2818, of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 2829 and 2833, of the Revised Statutes for 1913; Sections 2830, 2831, 2832, 2834, 2835, 2836 and 2837 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 2821 to 2828 inclusive, of the Revised Statutes for 1913; Chapter 198 of the Laws of 1915; Sections 2771 to 2787 inclusive, of the Revised Statutes for 1913; Sections 5826 to 5837 inclusive, of the Revised Statutes for 1913; Chapter 183 of the Laws of 1915; Sections 9152 to 9171 inclusive,

of the Revised Statutes for 1913; Sections 3369 to 3418 inclusive, 3420 to 3435 inclusive, 3437 to 3454 inclusive, 3456, Statutes for 1913; Sections 3419, 3436, 3455, of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 1915 to 1921 inclusive, of the Revised Statutes for 1913; Sections 2978 to 2981 inclusive, of the Revised Statutes for 1913; Sections 2934, 2935, 2936, 2976, 2977 and 2982, of the Revised Statutes for 1913 as amended by the Laws of 1915; Chapter 54 of the Laws of 1915; Chapter 185 of the Laws of 1917; Sections 3043, 3048, 3049, 3050, 3052, 3053 and 3054 of the Revised Statutes for 1913; Sections 3044 and 3047 of the Revised Statutes for 1913 as amended by the Laws of 1915; Sections 3045, 3046, and 3051 of the Revised Statutes for 1913 as amended by the Laws of 1917; Sections 796 to 805 inclusive and 807 to 811 inclusive, of the Revised Statutes for 1913; Section 806 of the Revised Statutes for 1913 as amended by the Laws of 1917 and Section 5875 of the Statutes for 1913.

Approved, April 19, 1919.

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*The only new subdivisions created under the Code are those printed in italics.

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An Educated Man

cultivates the open mind

combines the 3 great heritages of education

always listens to the man who knows

Never laughs at new ideas

knows the secret of getting along with other people

cultivates the habit of success

knows as a man thinketh so is he

knows popular notions are always wrong

can not be sold magic

links himself with a great cause

builds an ambition picture to fit his abilities

always tries to ~~keep~~ feel the emotion he ought to feel

keeps busy at his highest natural level

knows it is never too late to learn

never loses faith in the man he might have been

achieves the masteries that make him a world citizen

lives a great religious life

Taken from

"The Marks of an Educated Man"

BY
Albert Edward Wiggam